

FEDERAL REGISTER

THE NATIONAL ARCHIVES
OF THE UNITED STATES
1934

VOLUME 5 NUMBER 204

Washington, Friday, October 18, 1940

<div><div>The President</div><div>EXECUTIVE ORDER</div><div>PROVIDING FOR THE ADMINISTRATION OF THE ACT ENTITLED "AN ACT TO AUTHORIZE THE PRESIDENT TO REQUISITION CERTAIN ARTICLES AND MATERIALS FOR THE USE OF THE UNITED STATES, AND FOR OTHER PURPOSES"</div><div>Under and by virtue of the authority vested in me by the act of Congress entitled "AN ACT To authorize the President to requisition certain articles and materials for the use of the United States, and for other purposes", approved October 10, 1940, and as President of the United States, it is hereby ordered as follows:</div><div><div>(1) The Secretary of War and the Secretary of the Navy, acting jointly through the Army and Navy Munitions Board, shall make determination as to the necessity of requisitioning and taking over in the interest of national defense for the use or operation by the United States or in its interest any military or naval equipment or munitions, or component parts thereof, or machinery, tools, or materials, or supplies necessary for the manufacture, servicing, or operation thereof, within the purview of the said act of October 10, 1940.</div><div>(2) The provisions of the said act of October 10, 1940, relating to the sale or other disposition of any articles or materials requisitioned and taken over pursuant to the said act and to the determination whether the sale or disposition of any such articles or materials is in the public interest shall be administered by the Secretary of War and the Secretary of the Navy acting jointly through the Army and Navy Munitions Board.</div><div>(3) The provisions of the said act of October 10, 1940, other than those mentioned in paragraphs (1) and (2) hereof shall be administered by the Administrator of Export Control under regulations to be prescribed from time to time</div></div></div>	<div><div>by the President in the interest of national defense.</div><div>FRANKLIN D ROOSEVELT</div><div>THE WHITE HOUSE,</div><div>October 15, 1940.</div><div>[No. 8567]</div><div>[F. R. Doc. 40-4385; Filed, October 17, 1940; 9:34 a. m.]</div><div>EXECUTIVE ORDER</div><div>ESTABLISHING THE ST. LAWRENCE ADVISORY COMMITTEE AND PROVIDING FOR A PRELIMINARY INVESTIGATION OF INTERNATIONAL RAPIDS SECTION, ST. LAWRENCE RIVER</div><div>By virtue of the authority vested in me by the act entitled "An Act making appropriations for the Navy Department and the Naval Service for the fiscal year ending June 30, 1941, and for other purposes", approved June 11, 1940 (Pub. No. 588, 76th Cong.), and by the Military Appropriation Act, 1941, approved June 13, 1940 (Pub. No. 611, 76th Cong.), and as President of the United States, and in order to provide for emergencies affecting the national security and defense, it is hereby ordered as follows:</div><div><div>1. There is hereby established the St. Lawrence Advisory Committee, consisting of Leland Olds, Chairman of the Federal Power Commission, as chairman; A. A. Berle, Assistant Secretary of State; Brigadier General Thomas M. Robins of the Board of Engineers for Rivers and Harbors, Corps of Engineers, United States Army; and Gerald V. Cruise, representative of the Trustees of the Power Authority of the State of New York. It shall be the duty of the Committee to advise the President with respect to the matters hereinafter set forth, and to perform such other functions as the President may determine.</div><div>2. The Federal Power Commission and the Corps of Engineers, United States Army, are authorized, empowered, and directed—</div><div>(a) To make such preliminary investigations as the Advisory Committee may</div></div></div>	<div><div>CONTENTS</div><div>THE PRESIDENT</div><div>Executive Orders:</div><div>Administration of "Act to authorize the President to requisition certain articles and materials for the use of the United States, and for other purposes"-----</div><div>Director of Selective Service, designated to perform certain duties-----</div><div>St. Lawrence Advisory Committee established, etc-----</div><div>Regulations governing requisition of certain articles and materials-----</div><div>RULES, REGULATIONS, ORDERS</div><div>TITLE I—GENERAL PROVISIONS:</div><div>Administrative Committee of The Federal Register:</div><div>Federal Register Regulations, amendment-----</div><div>TITLE 26—INTERNAL REVENUE:</div><div>Bureau of Internal Revenue:</div><div>Miscellaneous excise taxes; importation of distilled spirits and wines-----</div><div>Miscellaneous regulations relating to liquor; violations of Federal Alcohol Administration Act-----</div><div>TITLE 30—MINERAL RESOURCES:</div><div>Bituminous Coal Division:</div><div>Orders granting temporary relief, etc.:</div><div>Cambria Coal Co-----</div><div>Cedar Grove Collieries, Inc., et al-----</div><div>TITLE 46—SHIPPING:</div><div>United States Maritime Commission:</div><div>Registration of persons entitled to practice before Commission, modification-----</div><div>TITLE 47—TELECOMMUNICATION:</div><div>Federal Communications Commission:</div><div>Airport control stations, license terms extended-----</div><div>(Continued on next page)</div></div> <div><div>Page</div><div>4121</div><div>4122</div><div>4121</div><div>4122</div><div></div><div>4123</div><div>4123</div><div>4123</div><div>4131</div><div>4131</div><div>4131</div><div>4132</div></div>
--	---	---

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following legal holidays by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500), under regulations prescribed by the Administrative Committee, approved by the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the **FEDERAL REGISTER** will be furnished by mail to subscribers, free of postage, for \$1.25 per month or \$12.50 per year; single copies 10 cents each; payable in advance. Remit money order payable to the Superintendent of Documents directly to the Government Printing Office, Washington, D. C.

CONTENTS—Continued

TITLE 49—TRANSPORTATION AND RAILROADS:	
Interstate Commerce Commission:	Page
Steam roads; Uniform System of Accounts; amendments filed.....	4132

NOTICES

Department of Agriculture:	
Agricultural Adjustment Administration:	
Sugar beet crop, 1941, wage hearings.....	4134
Department of Labor:	
Wage and Hour Division:	
Special certificates for employment of learners, issuance for various industries (2 documents).....	4135
Department of the Interior:	
Bituminous Coal Division:	
Black Band Coal Co., partial temporary relief.....	4132
Cook House Coal Mining Co., et al., hearing and temporary relief granted.....	4133
Hearings:	
Brule Smokeless Coal Co....	4134
Guyan Eagle Coal Co., et al.	4132
Mallory Coal Co., consent to withdrawal of petition....	4132
Securities and Exchange Commission:	
Consolidated Electric and Gas Co., et al., applications granted, etc.....	4137
Crandall-McKenzie & Henderson, Inc., changing trial examiner.....	4136
International Utilities Corp., declaration effective.....	4137
Merrill, Joseph L., designating officer, time and place for taking testimony, etc.....	4138
Treadwell Yukon Corp., Ltd., granting application to withdraw, etc.....	4137

CONTENTS—Continued

Securities and Exchange Commission—Continued.	Page
United Gas Improvement Co., et al., notice of filing.....	4140
United Stockyards Corp., findings and order granting withdrawal, etc.....	4136

consider appropriate or necessary with respect to development of navigation and hydroelectric power in the International Rapids Section of the St. Lawrence River, including, among other things, (1) preliminary investigations of the potential dam site by means of core borings, test pits, soil analyses, etc., (2) preliminary surveys of the lands necessary for such development, and investigation of the titles to such lands, and (3) preparation of preliminary plans and specifications.

(b) To make periodic reports, with recommendations to the President, of the results of the aforesaid investigations.

(c) To consult and cooperate with appropriate agencies of the Canadian Government.

3. In the performance of their functions and duties under this order the Federal Power Commission and the Corps of Engineers, United States Army, may avail themselves of the services, records, reports, and information of the Executive departments and other agencies of the Government.

4. The Federal Power Commission and Corps of Engineers, United States Army, shall have authority to appoint, without regard to the civil service laws, such officers, experts, and employees as they may deem necessary to carry out their functions under this order, and to prescribe their functions, duties, responsibilities, and tenure.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
October 16, 1940.

[No. 8568]

[F. R. Doc. 40-4392; Filed, October 17, 1940; 11:20 a. m.]

EXECUTIVE ORDER

DESIGNATING THE DIRECTOR OF SELECTIVE SERVICE TO PERFORM CERTAIN DUTIES AND FUNCTIONS UNDER THE SELECTIVE TRAINING AND SERVICE ACT OF 1940

Under and by virtue of the authority vested in me by the Selective Training and Service Act of 1940 (Public No. 783, 76th Congress), it is hereby ordered that the Director of Selective Service be, and he is hereby designated, authorized and empowered to appoint necessary members of local boards, local board physicians, government appeal agents, and members of appeal boards, provided for in Sections V and VI, Volume One¹

¹ 5 F.R. 3782.

(Organization and Administration) of the Selective Service Regulations.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
October 17, 1940.

[No. 8569]

[F. R. Doc. 40-4390; Filed, October 17, 1940; 11:20 a. m.]

REGULATIONS GOVERNING THE REQUISITIONING AND TAKING OVER FOR THE USE OR OPERATION BY THE UNITED STATES OR IN ITS INTEREST OF CERTAIN ARTICLES AND MATERIALS ISSUED PURSUANT TO THE PROVISIONS OF THE ACT OF CONGRESS APPROVED OCTOBER 10, 1940

Pursuant to the authority vested in me by the provisions of the Act of Congress entitled "AN ACT To authorize the President to requisition certain articles and materials for the use of the United States and for other purposes", approved October 10, 1940, and as President of the United States, I hereby prescribe the following regulations to govern the requisitioning and taking over for the use or operation by the United States or in its interest, of articles and materials ordered, manufactured, procured, or possessed for export purposes, the exportation of which has been denied in accordance with the provisions of section 6 of the Act of Congress, approved July 2, 1940 (Public No. 703, 76th Congress):

1. When the Secretary of War and the Secretary of the Navy, acting jointly through the Army and Navy Munitions Board, notify the Administrator of Export Control that it has been determined that it is necessary in the interest of national defense to requisition and take over for the use or operation by the United States or in its interest any article or material ordered, manufactured, procured, or possessed for export purposes the exportation of which has been denied in accordance with the provisions of section 6 of the act approved July 2, 1940 (Public No. 703, 76th Congress), the Administrator of Export Control shall cause to be served a requisition for the said article or material by an officer, agent, or employee of the United States which officer, agent, or employee shall take possession of the article or material for and in behalf of the United States and shall issue a receipt therefor.

2. The Administrator of Export Control shall hold or cause to be held whatever hearings may be necessary to determine the fair and just value of such property, at which hearings the owner of the property, his duly authorized agent or representative, or other person claiming an interest therein, may present evidence orally or in writing regarding the fair and just value of the article or material requisitioned and taken over. Upon conclusion of such hearings the Administrator of Export Control shall report to the President his finding and recommendation in regard thereto.

3. Upon determination by the President of the amount of the fair and just compensation for the article or material so requisitioned and taken over by the United States, the Administrator of Export Control shall give written notification to the owner of the property or his duly authorized agent or representative of such determination and of his right to accept or reject the sum awarded.

4. Acceptance of the award of compensation shall be accompanied by a release executed by the owner of the property or his duly authorized agent or representative absolving the United States, its officers, agents, and employees from any and all further claims in connection with the property so requisitioned and taken over.

5. Upon rejection of the award of compensation by the owner of the property or his duly authorized agent or representative, 50 percent of the sum awarded as just and fair compensation shall be paid to the said owner or his duly authorized agent or representative under the provisions of section 2 of the Act of Congress, approved October 10, 1940.

6. When an article or material is requisitioned and taken over in accordance with the provisions of the Act of Congress, approved October 10, 1940, and any Executive order or regulations issued pursuant thereto, payment for the said article or material shall be made from the funds available for such purpose to the department or agency requesting the requisitioning of the article or material.

FRANKLIN D. ROOSEVELT
THE WHITE HOUSE,
October 15, 1940.

[F. R. Doc. 40-4386; Filed, October 17, 1940;
9:34 a. m.]

Rules, Regulations, Orders

TITLE 1—GENERAL PROVISIONS

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

PART 2—FEDERAL REGISTER REGULATIONS AMENDMENT TO SECTION 2.2 (c) OF THE FEDERAL REGISTER REGULATIONS

Section 2.2 (c)¹ of the Federal Register Regulations prescribed by the Administrative Committee of the Federal Register and approved by me on May 26, 1938, Title 1, Part 2, Code of Federal Regulations, is hereby amended to read as follows:

(c) (1) All Presidential proclamations and Executive orders required to be published under section 5 (a) (1) of the Act.

(2) The following documents or classes of documents which are hereby pre-

¹Section 2.2 (c) appears as Section II A (c) at 3 F.R. 1211.

scribed to be published under section 5 (b) of the Act;

(i) Executive orders establishing, amending, or revoking Civil Service Rules.

(ii) Executive orders which the President directs to be published in the FEDERAL REGISTER.

(iii) Such documents as constitute brief summaries of government contracts awarded by the War and Navy Departments. (Secs. 5 (b), 6, 49 Stat. 501; 44 U.S.C., Sup., 305 (b), 306)

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER,

By R. D. W. CONNOR,
Chairman.

Approved:

FRANKLIN D. ROOSEVELT,
The White House,

Date: October 16, 1940.

[F. R. Doc. 40-4391; Filed, October 17, 1940;
11:20 a. m.]

TITLE 26—INTERNAL REVENUE CHAPTER I—BUREAU OF INTERNAL REVENUE

[T.D. 5014]

PART 171—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

VIOLATIONS OF FEDERAL ALCOHOL ADMINISTRATION ACT

By virtue of and pursuant to the provisions of the Federal Alcohol Administration Act, as amended (U.S.C. Sup., Title 27), Section 3170, Internal Revenue Code (53 Stat. Part 1), and Section 161 of the Revised Statutes (U.S.C., Title 5, Sec. 22), Part 171 of Title 26, Code of Federal Regulations, is hereby amended by inserting a new subpart, designated B (C),¹ to read as follows:

SUBPART B (C)—VIOLATIONS OF FEDERAL ALCOHOL ADMINISTRATION ACT

§ 171.4e *Investigations.* The functions relating to investigations under the Federal Alcohol Administration Act heretofore authorized to be exercised by the Deputy Commissioner of the Bureau of Internal Revenue in charge of the Alcohol Tax Unit, through the Basic Permit and Trade Practice Division, by Treasury Department Order No. 30, dated June 12, 1940 (5 F.R. 2212), will be exercised hereafter by him through the District Supervisors and the Permissive, Enforcement, and Basic Permit and Trade Practice Divisions, Alcohol Tax Unit.

§ 171.4f *Offers in compromise.* The functions relating to offers in compromise under the Federal Alcohol Administration Act heretofore authorized to be exercised by the Deputy Commissioner of the Bureau of Internal Revenue in charge

¹Subpart B (A) appears at 5 F.R. 2212; Subpart B (B) appears at 5 F.R. 2549, 2550.

of the Alcohol Tax Unit, through the Basic Permit and Trade Practice Division, by Treasury Department Order No. 30, dated June 12, 1940 (5 F.R. 2212), will be exercised hereafter by him through the District Supervisors and the Permissive and Basic Permit and Trade Practice Divisions, Alcohol Tax Unit.

STEWART BERKSHIRE,
Deputy Commissioner,
Alcohol Tax Unit.

Approved, October 9, 1940.

GUY T. HELVERING,
Commissioner.

Approved, October 16, 1940.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 40-4388; Filed, October 17, 1940;
10:32 a. m.]

[Regulations 21]

SUBCHAPTER C—MISCELLANEOUS EXCISE TAXES

PART 191—IMPORTATION OF DISTILLED SPIRITS AND WINES

TABLE OF CONTENTS

REGULATIONS GOVERNING THE IMPORTATION OF DISTILLED SPIRITS AND WINES

Article I—Scope of Regulations

Sec.

191.1 Imported distilled spirits and wines.

Article II—Regulations Superseded

191.2 Effective date.

Article III—Definitions

191.3 Definitions.

Article IV—Special (Occupational) Taxes

Sec.

191.4 Liquor dealers' special taxes.

Article V—Tax on Imported Distilled Spirits, Wines, and Imported Perfumes Containing Distilled Spirits

191.5 Distilled spirits.

(a) Distilled spirits, except brandy.

(b) Brandy.

191.6 Perfumes containing distilled spirits.

191.7 Wines.

(a) Still wines.

(b) Sparkling wines.

(c) Wines containing over 24 per centum of alcohol.

191.8 Liqueurs and cordials.

191.9 Rate of tax on compounds and preparations.

191.10 Statement for products containing only brandy.

(a) Form of statement.

(b) Copy of statement to be furnished for each port of entry.

(c) Change in production of spirits to be reported.

191.11 Collection of internal revenue taxes on imported distilled spirits and wines.

Article VI—General Requirements

Importation of Distilled Spirits and Wines

191.12 Permit required.

Marking, Branding, Stamping, and Labeling of Distilled Spirits and Wines

191.13 Marking, branding, and stamping of distilled spirits.

(a) Containers of 1 gallon or less.

(b) Containers in excess of 1 gallon.

191.14 Labeling of distilled spirits.

(a) Containers of 1 gallon or less.

(b) Containers in excess of 1 gallon.

191.15 Wines.

Red Strip Stamps for Containers of Distilled Spirits

Sec.

- 191.16 Containers of distilled spirits to bear red strip stamps.
- 191.17 Persons authorized to affix red strip stamps.
- 191.18 Denominations of red strip stamps.
- 191.19 Requisition, Form 428.
- 191.20 Statement, Form 1627.
- 191.21 Approval of requisition.
- 191.22 Purchase of red strip stamps.
- 191.23 Overprinting of red strip stamps.
- 191.24 Manner of affixing red strip stamps.
- 191.25 Concealing or obscuring red strip stamps.
- 191.26 Affixing red strip stamp over cup or cap.
- 191.27 Exportation of imported distilled spirits—red strip stamps.

Sec. Exemptions

- 191.28 Exemption from stamping, marking, bottling, and labeling requirements.

Article VII—Red Strip Stamps To Be Affixed in a Foreign Country

- 191.29 Conditions.
- 191.30 Requisition, Form 428.
- 191.31 Approval of requisition.
- 191.32 Sale and overprinting of red strip stamps.
- 191.33 Marking of cases.
- 191.34 Endorsement of warehouse and consumption entries.
- 191.35 Credit of red strip stamps against requisition.
 - (a) Arrival of distilled spirits at specified port.
 - (b) Diversion of spirits to other than specified port.
- 191.36 Irregularities or discrepancies in shipments.
- 191.37 Unused red strip stamps.
- 191.38 Credit for red strip stamps affixed to containers returned to a foreign bottler or exporter.
- 191.39 Credit for red strip stamps affixed to containers diverted by the importer for exportation.
- 191.40 Breach of regulations, or failure to use red strip stamps.

Article VIII—Red Strip Stamps Affixed Under Customs Supervision by Bottler in a Foreign Country

- 191.41 Conditions.
- 191.42 Assignment of customs officer.
- 191.43 Custody of red strip stamps.
- 191.44 Marking of cases.
- 191.45 Expenses of customs officer.

Article IX—Red Strip Stamps Affixed in Customs Bonded Warehouse

- 191.46 Conditions.
- 191.47 Requisition, Form 428.
- 191.48 Expense of affixing red strip stamps.
- 191.49 Marking of cases.

Article X—Importation of Distilled Spirits in Bulk

- 191.50 Persons authorized to receive distilled spirits imported in bulk.
- 191.51 Containers.
- 191.52 Red strip stamps.

Article XI—Importer's Records and Reports

Record and Report of Red Strip Stamps

- 191.53 Monthly record and report, Form 96.
- 191.54 Monthly record, Part I, Form 96.
- 191.55 Monthly report, Parts II and III, Form 96.
- 191.56 Separate record for each place of business.

Record and Report of Imported Distilled Spirits

- 191.57 Record and report, Form 52E.
- 191.58 Record 52.
- 191.59 Time of making entries.

Sec.

- 191.60 Separate record of serial numbers of cases.
- 191.61 Monthly reports.
- 191.62 Forms to be provided by users at own expense.

Article XII—District Supervisor's Records and Reports

Record and Report of Red Strip Stamps

- 191.63 Monthly report, Form 1593.

Article XIII—Reports of Collectors of Customs

- 191.64 Semiannual reports of collectors of customs.

Article XIV—Exchange and Redemption of Red Strip Stamps

- 191.65 Exchange of red strip stamps.
- 191.66 Redemption of red strip stamps.

Article I—Scope of Regulations

§ 191.1 *Imported distilled spirits and wines.* These regulations are prescribed pursuant to the provisions of law governing distilled spirits and wines from foreign countries arriving in the United States as that term is defined herein. (Distilled spirits and wines arriving in the United States from Puerto Rico, Philippine Islands, and the Virgin Islands are governed by Regulations 24 (26 CFR, Part 180).) (Sec. 3176, I.R.C.)

Article II—Regulations Superseded

§ 191.2 *Effective date.* These regulations shall, on and after the sixtieth day following the date of approval, supersede all prior regulations dealing with internal revenue taxes and other requirements as to imported distilled spirits and wines to the extent that such prior regulations are inconsistent herewith. All prior regulations which are inconsistent herewith shall remain in force and effect for the assessment and collection of all such taxes and penalties, for the imposition of all penalties, civil and criminal, and for the enforcement of all forfeitures which have accrued thereunder. (Sec. 3176, I.R.C.)

Article III—Definitions

§ 191.3 *Definitions.* As used in these regulations, the following words and phrases shall have the meanings as herein defined:

(a) "Bottler" shall mean a distiller, rectifier, and proprietor of an internal revenue bonded warehouse, tax-paid bottling house, industrial alcohol plant, industrial alcohol bonded warehouse, or a class 8 bonded warehouse qualified under the customs laws, and an agency of the United States or any State or political subdivision thereof.

(b) "Commissioner" shall mean the Commissioner of Internal Revenue.

(c) "Container" when used in connection with imported distilled spirits shall mean a liquor bottle or other authorized container of a capacity of one-half pint to 1 gallon, inclusive, conforming to Regulations 13 (26 CFR, Part 175), and, in so far as red strip stamp and labeling

requirements are concerned, also any container of less than one-half pint. "Container" when used in connection with imported wines shall mean any bottle, cask, or other closed receptacle, irrespective of size or of the material from which made.

(d) "Distilled spirits" shall mean (1) ethyl alcohol, hydrated oxide of ethyl, and spirits of wine, from whatever source derived or by whatever process produced, and (2) any alcoholic distillate fit for beverage purposes, such as whisky, brandy, gin, rum, liqueurs, cordials, and bitters, and all compounds, by whatever name called, containing distilled spirits and fit for beverage purposes, but shall not include wine, as defined in (k), containing 24 per centum or less of alcohol by volume.

(e) "District supervisor" or "supervisor" shall mean the person having charge of a supervisory district of the Alcohol Tax Unit of the Bureau of Internal Revenue.

(f) "Importer" shall mean any person authorized to import distilled spirits or wines into the United States.

(g) "I.R.C." shall mean the Internal Revenue Code.

(h) "Person" shall mean and include natural persons, associations, copartnerships, and corporations.

(i) "Red strip stamps" shall mean the stamps prescribed under authority of section 2803 (d), I.R.C.

(j) "United States" includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(k) "Wine" shall mean (1) still wine, including vermouth, artificial or imitation wines or compounds sold as still wine, champagne or sparkling wine, and artificially carbonated wine, and (2) liqueurs, cordials, or similar compounds, by whatever name sold or offered for sale, made with wine containing not over 24 per centum of alcohol by volume and fortified with brandy only.

(l) Words in the plural form shall include the singular, and vice versa, and words in the masculine gender shall include females, associations, copartnerships, and corporations.

(m) The term "including" shall not be deemed to exclude things other than those enumerated which are in the same general class. (Sec. 3176, I.R.C.)

Article IV—Special (Occupational) Taxes

§ 191.4 *Liquor dealers' special taxes.* Every person engaged in business as an importer within the meaning of the term as defined in Article III, who sells, or offers for sale, distilled spirits or wines, must file Form 11, "Special Tax Return," with the collector of internal revenue and pay special (occupational) taxes as wholesale dealer in liquor or retail dealer in liquor, or both, in accordance with the law and regulations governing the payment of such special taxes. (26 CFR,

Part 194) (Secs. 3176, 3250 (a), (b), 3254 (b), (c), I.R.C.)

Article V—Tax on Imported Distilled Spirits, Wines, and Imported Perfumes Containing Distilled Spirits

§ 191.5 *Distilled spirits*—(a) *Distilled spirits, except brandy*. Distilled spirits, except brandy, in customs bonded warehouse or imported into the United States are subject to an internal revenue tax, when withdrawn, at the rate of \$3 per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon.

(b) *Brandy*. Brandy in customs bonded warehouse or imported into the United States is subject to an internal revenue tax, when withdrawn, at the rate of \$2.75 per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon. (Secs. 2800, 3176, I.R.C.)

§ 191.6 *Perfumes containing distilled spirits*. Imported perfumes containing distilled spirits are subject to an internal revenue tax, when withdrawn, at the rate of \$3 per wine gallon and a proportionate tax at a like rate on all fractional parts of such wine gallon. (Secs. 2800, 3176, I.R.C.)

§ 191.7 *Wines*—(a) *Still wines*. All still wines, including vermouth, and all artificial or imitation wines or compounds sold as still wine, in customs bonded warehouse or imported into the United States are subject to an internal revenue tax, when withdrawn from customs custody, as follows:

On wines containing not more than 14 per centum of absolute alcohol, 6 cents per wine gallon, the per centum of alcohol under this section to be reckoned by volume and not by weight;

On wines containing more than 14 per centum and not exceeding 21 per centum of absolute alcohol, 18 cents per wine gallon;

On wines containing more than 21 per centum and not exceeding 24 per centum of absolute alcohol, 30 cents per wine gallon;

All such wines containing more than 24 per centum of absolute alcohol by volume shall be classed as distilled spirits and shall pay tax accordingly.

(b) *Sparkling wines*. All sparkling wines and artificially carbonated wines in customs bonded warehouse or imported into the United States are subject to an internal revenue tax, when withdrawn from customs custody, as follows:

On each bottle or other container of champagne or sparkling wine, 3 cents on each one-half pint or fraction thereof;

On each bottle or other container of artificially carbonated wine, 1½ cents on each one-half pint or fraction thereof.

(c) *Wines containing over 24 per centum of alcohol*. Champagne and other sparkling wines, still wines, arti-

ficially carbonated wines, and vermouth, if containing over 24 per centum of alcohol by volume, in customs bonded warehouse or imported into the United States are subject to an internal revenue tax, when withdrawn, at the rate of \$3 per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon, unless fortified with brandy exclusively, in which event the same are subject to an internal revenue tax, when withdrawn, at the rate of \$2.75 per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon. (Secs. 2800, 3030, 3176, I.R.C.)

§ 191.8 *Liqueurs and cordials*. Liqueurs, cordials, and similar compounds, except as stated below, whether they contain more or less than 24 per centum of alcohol by volume, if brandy is the only distilled spirit used in their production, in customs bonded warehouse or imported into the United States are subject to an internal revenue tax, when withdrawn, at the rate of \$2.75 per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon. But where brandy and other distilled spirits or other distilled spirits alone, are used in their production, such products are subject to an internal revenue tax, when withdrawn, at the rate of \$3 per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon. The exception is as to such liquors made with a wine (fortified or unfortified) base, without distilled spirits, other than brandy, and containing not over 24 per centum of alcohol by volume. Such liquors made with a wine base fortified with brandy and not containing over 24 per centum of alcohol by volume are subject to an internal revenue tax, on each bottle or other container, at the rate of 1½ cents on each one-half pint or fraction thereof. Such liquors made with an unfortified wine base and not containing over 24 per centum of alcohol are subject to internal revenue tax at the rates applicable to wines. (Secs. 2800, 3030, 3176 I.R.C.)

§ 191.9 *Rate of tax on compounds and preparations*. Compounds and preparations containing distilled spirits, which are fit for beverage purposes, in customs bonded warehouse or imported into the United States are subject to internal revenue tax at the rate of \$3 per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon, except where brandy is the only distilled spirit used in the manufacture thereof, in which event such products are subject to internal revenue tax at the rate of \$2.75 per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon. (Secs. 2800, 3030, 3176, I.R.C.)

§ 191.10 *Statement for products containing only brandy*—(a) *Form of statement*. Champagne or other sparkling wine, still wines, artificially carbonated wines, vermouth, cordials, liqueurs or similar compounds, and other compounds or preparations, which contain no distilled spirits other than brandy, and which are subject to the internal revenue tax as distilled spirits, in customs bonded warehouse or imported into the United States, may be withdrawn upon payment of the internal revenue tax at the rate of \$2.75 per proof gallon, or wine gallon when below proof, if there has been filed with the collector of customs of the port at which the liquors are to be withdrawn, a sworn statement signed by the foreign producer, containing the following information:

- (1) The name and address of each importer.
- (2) The name and address of the foreign producer.
- (3) The kinds and brands of liquor.
- (4) That no distilled spirits other than brandy are used in the manufacture of the product.
- (5) That the statement applies to a specific lot or applies generally to all importations of liquor described therein.
- (6) A serial number assigned by the producer.

Such statements shall be in the English language, or accompanied by a certified translation if in a foreign language.

(b) *Copy of statement to be furnished for each port of entry*. Several actual importers may be named in one statement by the foreign producer. Where the liquor covered by any statement is to be withdrawn from various ports, the actual importer, or the agent or distributor, as the case may be, shall file with the collector of customs of the district in which such importer, agent, or distributor is located, the original statement and photostatic copies of such statement for certification and transmittal to the collector of customs of each respective port of entry. The copies so filed shall bear the serial number and date of the original statement regardless of the number of ports at which same are filed. The collector of customs shall stamp the date of receipt on all statements or copies of statements received by him.

(c) *Change in production of spirits to be reported*. If in any case in which a statement intended generally for all importations of the same kind and brand of liquor is on file and other spirits are used in its manufacture, or brandy is eliminated therefrom, the importer shall notify the collector of customs at the port where such general statement is on file to that effect, giving adequate information from which the statement may be identified. Copies shall be furnished to such collector for certification and transmittal to the collector of customs of each port of entry where a copy of the original statement is on file. Notwithstanding

ing a sworn statement, or statements, has already been submitted, the collector of customs may require the submission of an additional sworn statement, or statements, at any time such action is deemed necessary. (Secs. 2800, 3030, 3176, I.R.C.)

§ 191.11 *Collection of internal revenue taxes on imported distilled spirits and wines.*¹ Internal revenue taxes payable on imported distilled spirits, including perfumes containing distilled spirits, and wines, when entered or withdrawn for consumption, are collected, accounted for, and deposited as internal revenue collections by collectors of customs in accordance with customs regulations (19 CFR, Part 22).

Article VI—General Requirements

Importation of Distilled Spirits and Wines

§ 191.12 *Permit required.* Under the Federal Alcohol Administration Act and the regulations issued pursuant thereto, any person except an agency of a State or political subdivision thereof, or any officer or employee of any such agency, intending to engage in the business of importing distilled spirits or wines for nonindustrial use is required to procure a permit therefor. (Sec. 3, 49 Stat. 978; 27 U.S.C., Sup., 203)

Marking, Branding, Stamping, and Labeling of Distilled Spirits and Wines

§ 191.13 *Marking, branding, and stamping of distilled spirits.*—(a) *Containers of 1 gallon or less.* Imported containers of distilled spirits, and empty containers imported for the bottling of imported distilled spirits, are required to be marked under customs regulations (19 CFR, Part 9.8) and containers of one-half pint to 1 gallon under Regulations 13 (26 CFR, Part 175).

(b) *Containers in excess of 1 gallon.* Imported containers of distilled spirits in excess of 1 gallon are required to be marked and stamped under customs regulations (19 CFR, Parts 9.7, 9.8, 10.40).

§ 191.14 *Labeling of distilled spirits.*—(a) *Containers of 1 gallon or less.* Labels on imported containers of distilled spirits, and on containers of imported distilled spirits, bottled in customs custody, for sale at retail, are required to be covered by a "Certificate of Label Approval and Release for Imported Distilled Spirits" issued pursuant to the Federal Alcohol Administration Act and regulations promulgated thereunder (27 CFR, Part 5). Containers of imported distilled spirits bottled after tax-payment and withdrawal from customs custody are required to be covered by a "Certificate of Approval of Labels of Domestically Bottled Distilled Spirits"

or a "Certificate of Exemption from Label Approval for Distilled Spirits" issued pursuant to the Federal Alcohol Administration Act and regulations promulgated thereunder (27 CFR, Part 5). When distilled spirits are to be labeled under a certificate of exemption from label approval, the labels affixed to containers are required to conform to Regulations 13 (26 CFR, Part 175).

(b) *Containers in excess of 1 gallon.* Imported containers of distilled spirits in excess of 1 gallon are required to be labeled under customs regulations (19 CFR, Parts 9.7, 10.40).

§ 191.15 *Wines.* All imported wines containing not less than 7 per centum and not more than 24 per centum of alcohol by volume are required to be packaged, marked, branded, and labeled in conformity with the Federal Alcohol Administration Act and regulations promulgated thereunder (27 CFR, Part 4), prior to their removal from customs custody. Containers of imported wine bottled or packaged after tax-payment and withdrawal from customs custody are required to be covered by a "Certificate of Approval of Labels of Wine Domestically Bottled or Packed" or a "Certificate of Exemption from Label Approval for Wine" issued pursuant to the Federal Alcohol Administration Act and regulations promulgated thereunder (27 CFR, Part 4). Imported containers of wine are required also to be marked, branded, labeled, and stamped in accordance with customs regulations (19 CFR, Part 9.7, 9.8, 10.40).

Red Strip Stamps for Containers of Distilled Spirits

§ 191.16 *Containers of distilled spirits to bear red strip stamps.* The immediate containers of imported distilled spirits are required to bear red strip stamps indicating the payment of all internal revenue taxes thereon, with the following exceptions:

(a) Distilled spirits in bond or in customs custody;

(b) Distilled spirits not intended for sale or for use in the manufacture or production of any article intended for sale; or

(c) Any regularly established common carrier receiving, transporting, delivering, or holding for transportation or delivery distilled spirits in the ordinary course of its business as a common carrier. (Secs. 2803, 3176, I.R.C.)

§ 191.17 *Persons authorized to affix red strip stamps.* Red strip stamps shall be affixed to imported containers of distilled spirits as follows: (a) by the bottler or exporter in a foreign country, as prescribed by Article VII; (b) under customs supervision, by the bottler in a foreign country, as prescribed by Article VIII; or (c) by the importer or owner in a customs bonded warehouse, as prescribed by Article IX. The bottler of distilled spirits imported in bulk shall affix stamps to the containers, as prescribed by Article X. (Secs. 2803, 3176, I.R.C.)

§ 191.18 *Denominations of red strip stamps.* Red strip stamps will be provided in the following denominations only: 1 gallon, ½ gallon, 1 quart, ½ quart, ¼ quart, 1 pint, ½ pint, ¼ pint, ½ pint, and less than ½ pint. When containers for which standards of fill are not prescribed are of sizes for which no stamps are provided, the person required to affix the stamps shall use those of the denomination next under the actual quantity of spirits in the containers, as, for instance, a stamp of the ½ pint denomination for a container of more than ½ pint and less than ¾ pint, and shall block or strike out the original denomination and write or print on the stamps immediately above the blocked or stricken out denomination the exact quantity of spirits in the containers. Stamps of the denomination of "less than ½ pint" need not be changed to show the exact quantity in the containers. Stamps of the "less than ½ pint" denomination will be issued 50 in a sheet. Stamps of all other denominations will be issued 42 in a sheet. The price is 1 cent for each stamp, except that in the case of stamps for containers of less than one-half pint, the price is one-quarter of 1 cent for each stamp. (Secs. 2803, 3176, I.R.C.)

§ 191.19 *Requisition, Form 428.* Requisition for the purchase of red strip stamps shall be made by the importer, or his duly authorized agent, or by the subsequent purchaser of the distilled spirits as hereinafter provided, on Form 428, "Order for Stamps—Distilled Spirits Bottle Strips," in triplicate. Where an importer has given a bottler or another agent power of attorney to sign Form 428, the importer's name must be given, followed by the signature of the person authorized and the words "Attorney in Fact." A copy of the power of attorney must be filed with the collector of customs. The local address of the importer, or his agent, must be given on Form 428 before approval by the collector of customs. The importer must present and file (if he has not already done so) with the collector of customs a certified or photostatic copy of his permit issued pursuant to the Federal Alcohol Administration Act and regulations promulgated thereunder at the time he presents his first Form 428 for approval. All Forms 428 shall be submitted to the collector of customs of the district in which the place of business of the importer, or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, is located. (Secs. 2803, 3176, I.R.C.)

§ 191.20 *Statement, Form 1627.* The importer or his duly authorized agent, shall submit with Form 428 for stamps to be sent to a foreign country a sworn statement on Form 1627, "Statement to Accompany Requisition for Red Strip Stamps for Imported Distilled Spirits," that the stamps requisitioned on Form 428 are required to supply existing orders and/or anticipated requirements within 30 days from the date of the requisition

¹The collection of internal revenue taxes on spirits smuggled or clandestinely introduced into the United States is imposed upon collectors of internal revenue. (See T. D. 4804, Appendix.)

and will be used for the quantity of distilled spirits to be imported through the designated port (or other port or ports to be designated subsequently on Form 1627A as provided by § 191.35) at which warehouse or consumption entries will be filed. All of the information indicated by the headings of the columns and lines and the instructions printed on the form, shall be entered thereon. (Secs. 2803, 3176, I.R.C.)

§ 191.21 *Approval of requisition.* The collector of customs will approve Form 428 if he is satisfied that the importer is the holder of an I permit issued pursuant to the Federal Alcohol Administration Act and regulations promulgated thereunder and that the red strip stamps are required for distilled spirits to be imported, or to be removed from customs custody, as prescribed in these regulations. The collector of customs will retain Form 1627 and one copy of Form 428 and return the original and remaining copy of Form 428 to the applicant for submission to the proper collector of internal revenue. (Secs. 2803, 3176, I.R.C.)

§ 191.22 *Purchase of red strip stamps.* Red strip stamps shall be purchased by the importer, or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, from the collector of internal revenue of the district in which the place of business of such applicant is located. The applicant shall forward to the collector of internal revenue the original and copy of the approved Form 428, together with remittance for the stamps. The collector of internal revenue may sell the exact number of stamps requisitioned thereon even though it is necessary to sell portions of sheets. (The remaining portion of the sheet should be returned to the Accounts and Collections Unit of the Bureau scheduled on Form 97, in triplicate, for credit and disposition.) The collector of internal revenue will enter the serial numbers of the stamps issued and stamp the date of sale on both copies of Form 428. He will retain the original copy and send the remaining copy to the proper district supervisor. (Secs. 2803, 3176, I.R.C.)

§ 191.23 *Overprinting of red strip stamps.* The importer, or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, shall have indelibly overprinted in plain and legible letters on each of the red strip stamps, at his expense, the names and address of the importer, which shall, for example, be as follows: "John Doe & Co., Baltimore, Md." He shall submit the stamps to the collector of customs, who will verify the overprinting and make an endorsement showing the verification on the retained original Form 1627 submitted with Form 428. The collector of customs will then (a) deliver the stamps to the importer, or his duly authorized agent, for transmission to the bottler or exporter abroad, as provided by Article VII; or (b) forward them to the officer assigned to the

foreign bottler, as provided by Article VIII; or (c) deliver them to the importer, or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, for affixing to the containers in customs bonded warehouse, as prescribed by Articles IX and X. All strip stamps overprinted with the brand and kind of distilled spirits (in addition to the name and address of the importer), on hand on the effective date of these regulations, may be used (1) without change for affixing to the containers of distilled spirits for which they were originally purchased, or (2) with the words representing the brand and kind of distilled spirits blocked out or otherwise obliterated, for affixing to any brand or kind of distilled spirits. In the latter case, if the importer desires to transfer such stamps to another foreign country, he must first submit them to the collector of customs who approved the Form 428, for appropriate record. Prior to sending such stamps to another foreign country, he must submit Form 1627 as provided by § 191.20. (Secs. 2803, 3176, I.R.C.)

§ 191.24 *Manner of affixing red strip stamps.* The red strip stamps must be securely affixed to the containers with the use of a good adhesive. The adhesive used must be in proper liquid condition. Care must be taken to cover the entire back of the stamp with the adhesive, and to press it firmly against the surface of the container sufficiently long to cause the stamp to adhere securely to the container. The stamp must pass over the mouth of the container, extending an approximately equal distance on two sides of the container, and be so affixed that a portion of the stamp will remain attached to the container when it is opened. (Secs. 2803, 3176, I.R.C.)

§ 191.25 *Concealing or obscuring red strip stamps.* No part of the red strip stamp shall be concealed or obscured by any label or other covering, except that a cup may be placed over the opening of the container or the container may be placed in a carton, as hereinafter provided. Seals made of cellulose or other material which are shrunk or otherwise fitted over the necks of the containers and cover the stamps must be sufficiently transparent to permit the stamps to be plainly seen and the data thereon easily read. No cup or cap may be placed over the opening of a container and cover the stamp, unless such cup or cap is transparent or is so placed on the container that it may be readily removed at any time without injury to the stamp and the arrangement is such that the ends of the stamp will be plainly visible when the cap or cup is in place. Cartons or other coverings of containers of distilled spirits are permitted, if so made that they may be opened and closed without being torn or broken. Sealed cartons or other coverings may not be used unless transparent or unless openings

therein permit the data on the stamp and the indicia and penalty clause required by Regulations 13 (26 CFR, Part 175) on the container to be plainly seen and read. (Secs. 2803, 2871, 3176, I.R.C.)

§ 191.26 *Affixing red strip stamp over cup or cap.* The red strip stamp may be affixed over a cup or cap placed over the opening of the container, provided the arrangement is such that the stamp will be torn apart or destroyed when the cup or cap is unscrewed or removed or destroyed. Where it is desired to affix the stamp over a removable cup or cap, the cup or cap must be securely screwed or fastened over the opening of the container, and must be of such size and construction that the stamp will pass over the top and extend beyond the cup or cap for such length that each end of the stamp may be securely affixed to the surface of the container. The stamp must be securely affixed, with a strong adhesive, to both the cup or cap and the container. Where it is desired to affix the stamp over a cap or seal made of cellulose or other similar adhesive material which is so shrunk or otherwise fitted over the neck of the container as to be unremovable without being destroyed, and is of such size and construction that the stamp will not extend beyond such cap or seal to permit each end to be affixed to the surface of the container, it will not be necessary for the ends of the stamp to be affixed to the surface of the container, provided that the cap or seal is affixed to the container in such a manner that when the container is opened the stamp will be torn apart and a portion of the cap or seal and the stamp will remain attached to the container. In any case where there is doubt as to the propriety of the use of any cup or cap, the container and cup or cap should be submitted to the district supervisor for a ruling thereon. (Secs. 2803, 3176, I.R.C.)

§ 191.27 *Exportation of imported distilled spirits—red strip stamps.* Red strip stamps affixed to imported distilled spirits prior to arrival in the United States, which spirits are diverted by the importer for exportation purposes, shall be effectively destroyed by the exporter, under customs supervision, prior to exportation. Red strip stamps affixed to distilled spirits originating in the United States as evidence of tax-payment shall not be removed at or prior to the time of exportation. (Secs. 2803, 3176, I.R.C.)

Exemptions

§ 191.28 *Exemption from stamping, marking, bottling, and labeling requirements.* The provisions of these regulations relating to the affixing of red strip stamps, the indicia requirements of containers prescribed by Regulations 13 (26 CFR, Part 175), and the labeling of containers as prescribed by regulations promulgated under the Federal Alcohol Administration Act (27 CFR, Part 5) are

not applicable to imported distilled spirits (a) not for sale or for any other commercial purpose whatever; (b) for use as ship stores; or (c) for personal use. Exemptions from the requirement that imported distilled spirits and wines be marked to indicate the country of origin are set forth in customs regulations (19 CFR, Part 9.10). (Secs. 2803, 2871, 3176, I.R.C.)

Article VII—Red Strip Stamps To Be Affixed in a Foreign Country

§ 191.29 *Conditions.* Red strip stamps to be affixed to containers of distilled spirits may, in accordance with the procedure prescribed in this article, be purchased by importers to be affixed to the containers by the bottler or exporter in a foreign country. (Secs. 2803, 3176, I.R.C.)

§ 191.30 *Requisition, Form 428.* The importer, or his duly authorized agent, shall make requisition on Form 428, in accordance with § 191.19, and submit a sworn statement on Form 1627, as prescribed by § 191.20, for red strip stamps to be sent to the foreign bottler or exporter. (Secs. 2803, 3176, I.R.C.)

§ 191.31 *Approval of requisition.* The collector of customs will approve Form 428 if he is satisfied that the importer is the holder of an I permit issued pursuant to the Federal Alcohol Administration Act and regulations promulgated thereunder and that the red strip stamps are required for distilled spirits to be imported to supply existing orders and/or anticipated requirements within 30 days from the date of the requisition. He will dispose of Forms 428 and Form 1627 in accordance with section 191.21. (Secs. 2803, 3176, I.R.C.)

§ 191.32 *Sale and overprinting of red strip stamps.* The importer, or his duly authorized agent, shall purchase the red strip stamps from the collector of internal revenue as provided by section 191.22 and have them overprinted and verified as provided by section 191.23. After verification of the overprinting and the prescribed endorsement on Form 1627, the collector of customs will deliver the stamps to the importer, or his duly authorized agent, for transmission to the bottler or exporter abroad. (Secs. 2803, 3176, I.R.C.)

§ 191.33 *Marking of cases.* The foreign bottler or exporter will plainly and legibly mark the following legend* on each case of containers of distilled spirits to which red strip stamps are attached:

The red strip stamps required by Section 2803, I.R.C., are affixed to the containers of distilled spirits in this case, consisting of _____, bearing _____, (Number of containers) _____, denomination. _____

(Name of bottler or exporter)

(Secs. 2803, 3176, I.R.C.)

§ 191.34 *Endorsement of warehouse and consumption entries.* Upon arrival

* Stencils or other devices now in use may be utilized until replaced, when they must conform to the above wording.

of the distilled spirits in this country, warehouse entries and consumption entries shall have endorsed thereon by the importer, or his duly authorized agent, the following legend:†

Red strip stamps required by Section 2803, I.R.C., were affixed abroad. These stamps were purchased by _____

(Name of purchaser)
upon a requisition Form 428, Purchaser's No. _____, approved by the Collector of Customs at _____ (Port where Form 428 was approved)

on _____ (Date of approval of Form 428)

(Secs. 2803, 3176, I.R.C.)

§ 191.35 *Credit of red strip stamps against requisition.*—(a) *Arrival of distilled spirits at specified port.* Where warehouse and consumption entries are filed at the port where the requisition was approved, the collector of customs who approved the requisition will credit the Form 428 described in the endorsement on the entry referred to in § 191.34 with the number and denomination of red strip stamps shown by the usual customs examination to have been attached to the container.

(b) *Diversion of spirits to other than specified port.* In the event of diversion of all or part of the spirits to a port or ports other than the port specified in Form 1627 filed with the Form 428, the importer shall submit a supplemental statement in duplicate on Form 1627A, "Application for Diversion of Red Strip Stamps for Imported Distilled Spirits," for each such port. He shall submit them to the collector of customs who approved the Form 428, who will retain the original and transmit the copy to the collector of customs at the designated port. Where a warehouse or consumption entry is filed at a specified port other than the port where a requisition was approved, the collector of customs of the port at which the warehouse or consumption entry is filed will promptly notify, on Form 1627A, the collector of customs who approved the Form 428, of the number and denomination of stamps shown by the usual customs examination to have been attached to the containers. The collector of customs who approved the requisition will credit the Form 428 accordingly. Such diverted spirits may not be released from customs custody until Form 1627A has been received at the port of diversion or the collector of customs who approved Form 428 has authorized such release. (Secs. 2803, 3176, I.R.C.)

§ 191.36 *Irregularities or discrepancies in shipments.* In case any irregularities or discrepancies are found, the collector of customs at the port of entry will make demand for redelivery of unexamined packages, and will not release examination or redelivered packages until satisfactory explanation and/or proper corrections have been made. (Secs. 2803, 3176, I.R.C.)

§ 191.37 *Unused red strip stamps.* Unused red strip stamps returned to the importer by the bottler or exporter abroad, shall be submitted to the collec-

tor of customs who approved the original requisition Form 428, for noting such fact on the requisition. After proper notification has been made, the collector of customs will return the stamps to the importer (who will acknowledge receipt), and notify the proper district supervisor. If subsequently the importer desires to send such stamps to a bottler or exporter abroad, he must submit them with Form 1627 properly modified, in duplicate, to the collector of customs, who will note approval on the copy of Form 1627 and return it with the stamps to the importer. He will retain the original Form 1627. Where the distilled spirits are to be imported through more than one port, Form 1627A shall be submitted by the importer to such collector, for each port of entry, for certification and transmittal of a copy to the collector of customs at each of the ports at which warehouse or consumption entries will be filed. The importer shall make appropriate entries on his monthly report, Form 96, of the receipt and disposition of unused stamps covered by this section. (Secs. 2803, 3176, I.R.C.)

§ 191.38 *Credit for red strip stamps affixed to containers returned to a foreign bottler or exporter.* When for any reason containers of distilled spirits bearing red strip stamps are returned from customs custody to the foreign bottler or exporter, the importer may be given credit for such stamps, provided he obtains an affidavit from an excise official of the foreign government concerned to the effect that the stamps were removed from the containers and destroyed under his supervision. The importer shall submit such affidavit to the collector of customs who will credit the original requisition accordingly. The importer shall make appropriate entries on his monthly report, Form 96. (Secs. 2803, 3176, I.R.C.)

§ 191.39 *Credit for red strip stamps affixed to containers diverted by the importer for exportation.* The importer may be given credit for red strip stamps which were affixed to imported distilled spirits diverted by the importer for exportation purposes and which were effectively destroyed by the exporter under customs supervision, provided he obtains an affidavit from the customs officer to the effect that the stamps were removed from the containers and destroyed under his supervision. The importer shall submit such affidavit to the collector of customs who approved the original requisition for proper credit. The importer shall make appropriate entries on his monthly report, Form 96. (Secs. 2803, 3176, I.R.C.)

§ 191.40 *Breach of regulations, or failure to use red strip stamps.* Any serious breach of these regulations, or failure to use the red strip stamps for the purpose for which they were procured within a period of six months, or within such additional extension of time as may be granted by the collector of customs, not satisfactorily explained to the collector of

customs, will be grounds for denial of approval of further requisitions for purchase of stamps. (Secs. 2803, 3176, I.R.C.)

Article VIII—Red Strip Stamps Affixed under Customs Supervision by Bottler in a Foreign Country

§ 191.41 *Conditions.* Red strip stamps to be affixed to containers of distilled spirits may, in accordance with the procedure prescribed in Article VII, be purchased by an importer, or his duly authorized agent, to be affixed to the containers by the bottler in a foreign country, under the supervision of a customs officer. (Secs. 2803, 3176, I.R.C.)

§ 191.42 *Assignments of customs officer.* The collector of customs to whom the red strip stamps are delivered by the importer will assign an officer to the bottling plant in the foreign country to supervise the affixing of the stamps to the containers. The collector of customs after verification of the overprinting of the stamps will deliver them to the officer assigned to the foreign bottling plant. (Secs. 2803, 3176, I.R.C.)

§ 191.43 *Custody of red strip stamps.* The officer will retain the red strip stamps in his custody, keeping them locked in a secure place provided by the bottler, the key to which shall at all times be in possession of the officer. The officer will deliver to the bottler such stamps as may be required during bottling operations, and will personally assure himself that all stamps delivered to the bottler are affixed to the containers filled with distilled spirits for export to the United States. (Secs. 2803, 3176, I.R.C.)

§ 191.44 *Marking of cases.* The officer supervising the affixing of the red strip stamps to containers at the foreign bottling plant will stamp the following legend¹ upon each case:

-----, 19--
(Month) (Day)
This is to certify that on this date the red strip stamps required by section 2803, I.R.C., were affixed, under my supervision, to the containers of distilled spirits in this case, consisting of -----
(Number of containers)
bearing stamps of ----- denom-
ination.

(Name)

(Official designation)

This legend, when stamped on the case and filled in by the officer, may be accepted by customs officers as evidence that the containers bear stamps. (Secs. 2803, 3176, I.R.C.)

§ 191.45 *Expenses of customs officer.* The actual and necessary, expenses of transportation and subsistence of the customs officer assigned under authority of these regulations shall be collected from the importer by the collector of customs. (Secs. 2803, 3176, I.R.C.)

Article IX—Red Strip Stamps Affixed in Customs Bonded Warehouse

§ 191.46 *Conditions.* Distilled spirits in containers imported without having

red strip stamps attached may not be released from customs custody until a stamp has been affixed to each container, under the supervision of a customs officer in a bonded warehouse. Stamps purchased for such containers but not affixed within 48 hours after entry shall be placed in the custody of the collector of customs of the district in which the bonded warehouse is located, until such time as they are to be affixed to containers prior to removal from customs custody. At ports where there is no customs bonded warehouse, no distilled spirits imported in containers without stamps affixed shall be released until the stamps have been affixed to the containers under the supervision of a customs officer. (Secs. 2803, 3176, I.R.C.)

§ 191.47 *Requisition, Form 428.* Requisition for red strip stamps shall be made by the original importer or his duly authorized agent: *Provided, however,* That if the importer has gone out of business the requisition shall be made by the person having title to the distilled spirits. The requisition shall be submitted in accordance with § 191.19. Subsequent procedure shall conform to applicable provisions of §§ 191.21, 191.22, and 191.23. (Secs. 2803, 3176, I.R.C.)

§ 191.48 *Expense of affixing red strip stamps.*—Expenses of cartage, storage, repacking, handling, or other labor connected with the opening of cases and affixing of red strip stamps to the containers, shall be borne by the importer, or by the subsequent purchaser of the distilled spirits referred to in § 191.47, as the case may be. (Secs. 2803, 3176, I.R.C.)

§ 191.49 *Marking of cases.* There shall be indelibly stamped upon each case by the customs officer supervising the affixing of red strip stamps to containers, the following legend:¹

PORT OF -----, 19--
(Month) (Day)
This is to certify that on this date the red strip stamps required by Section 2803, I.R.C., were affixed, under my supervision, to the containers of distilled spirits in this case, consisting of -----
(Number of containers)
bearing stamps of ----- denom-
ination.

(Name)

(Official designation)

(Secs. 2803, 3176, I.R.C.)

Article X—Importation of Distilled Spirits in Bulk

§ 191.50 *Persons authorized to receive distilled spirits imported in bulk.* Distilled spirits imported in bulk (i. e., in containers having a capacity in excess of 1 gallon) may be entered into a class 8 customs bonded warehouse for bottling, or may be withdrawn from customs custody only if entered for exportation or if withdrawn by a person to whom it is lawful to sell or otherwise dispose of distilled spirits in bulk pursuant to the Federal Alcohol Administration Act. (Sec. 6, 49 Stat. 985; 27 U.S.C., Sup., 206) The

importation and disposition of distilled spirits imported in bulk shall be reported as prescribed by § 191.57. (Secs. 2857, 2858, 2871, 3171, 3176, I.R.C.)

§ 191.51 *Containers.* Imported distilled spirits may be bottled in either domestic or imported containers conforming to the provisions of Regulations 13 (26 CFR, Part 175). (Secs. 2871, 3176, I.R.C.)

§ 191.52 *Red strip stamps.* Red strip stamps overprinted with the name and address of the original importer as prescribed by § 191.23 or stamps without any overprinting prescribed for domestic use (26 CFR, Part 189), may be affixed to containers of imported distilled spirits bottled in a class 8 customs bonded warehouse. Stamps without any overprinting prescribed for domestic use (26 CFR, Part 189) shall be affixed by the bottler to containers of imported distilled spirits bottled after withdrawal from customs custody. (Secs. 2803, 3176, I.R.C.)

Article XI—Importer's Records and Reports

Record and Report of Red Strip Stamps

§ 191.53 *Monthly record and report, Form 96.* Importers of distilled spirits shall keep records and render reports of red strip stamps on Form 96, "Monthly Record and Report of Red Strip Stamps Purchased and Used by Importers and by Other Persons Assigned Custody of Stamps." (Secs. 2803, 3176, I.R.C.)

§ 191.54 *Monthly record, Part I, Form 96.* Importers shall keep a record of red strip stamps purchased and used daily on Part I of Form 96. A separate page in single copy is required for each denomination of stamps. Entries shall be made on Form 96 daily, as indicated by the headings of the various columns and lines, and in accordance with the instructions on the form. The record shall be kept in bound form on the premises at which the business is conducted, available for inspection by Government officers. (Secs. 2803, 3176, I.R.C.)

§ 191.55 *Monthly report, Parts II and III, Form 96.* At the close of the month, importers shall prepare Parts II and III of Form 96, in triplicate, reporting on Part II the red strip stamps purchased and used during the month, and on Part III the stamps shipped abroad to importers' agents. Two copies shall be forwarded, on or before the 5th day of the succeeding month, to the district supervisor, Alcohol Tax Unit, in charge of the district in which the business of the importer is conducted. One copy shall be retained in bound form with the importer's copies of Part I, Form 96, for the same month, available for inspection by Government officers. (Secs. 2803, 3176, I.R.C.)

§ 191.56 *Separate record for each place of business.* Where an importer has more than one place of business, a separate record on Part I of Form 96 shall be maintained on the premises of each place of business. A separate monthly report (Parts II and III) shall

also be rendered for each place of business. Where an agent purchases stamps for several importers, the agent shall keep a separate record for each importer on Part I of Form 96 of all stamps sent abroad or retained on his premises for the account of the importer. Separate monthly reports (Parts II and III) shall be rendered by the agent in the name of each importer, to the supervisor of the district in which the stamps are purchased. (Secs. 2803, 3171, I.R.C.)

Record and Report of Imported Distilled Spirits

§191.57 *Record and report, Form 52E.* Every importer who imports and sells distilled spirits *in bulk* shall keep at the place of business covered by his wholesale liquor dealer special tax stamp, Form 52E, "Monthly Record and Report of Importer or Proprietor of Tax-Paid Premises," of all distilled spirits, both bulk and bottled, imported and disposed of by him: *Provided*, That, if the importer so desires, he may keep Form 52E for bulk spirits only and Record 52 for bottled spirits only. If only bottled spirits are imported, he shall keep Record 52. The receipt of imported distilled spirits, both bulk and bottled, shall be entered on Part 1 of Form 52E or bottled distilled spirits on Record 52, as the case may be, as of the time of making the customs entry. The disposition of such distilled spirits shall be entered on Part 2 of Form 52E or Record 52, as the case may be, as of the time of their sale or their tax-payment and withdrawal from customs custody. If the importer enters the distilled spirits into a class 8 customs bonded warehouse for bottling, he shall note such temporary disposition of the distilled spirits in bulk on Part 2 of Form 52E and, upon completion of their bottling, enter the bottled distilled spirits on Part 1 of Form 52E or Record 52, as the case may be. He shall then report the disposition of the bottled distilled spirits on Part 2 of Form 52E or Record 52, as the case may be, at the time of their sale or their tax-payment and withdrawal from customs custody. (Secs. 2857, 2858, 3171, 3176, 3254, I.R.C.)

§191.58 *Record 52.* Every importer who maintains wholesale liquor dealer premises where bottled distilled spirits are received and stored, shall keep Record 52 of all bottled distilled spirits received and disposed of thereat (including bottled spirits transferred from customs custody) in accordance with Regulations 20 (26 CFR, Part 194), in addition to a record on Form 52E or Record 52, as the case may be, as prescribed by §191.57. (Secs. 2857, 2858, 3171, 3176, 3254, I.R.C.)

§191.59 *Time of making entries.* Daily entries shall be made on Record 52 and Form 52E, as indicated by the headings of the various columns, and in accordance with instructions printed thereon, not later than the close of business of the day on which the transactions occur: *Provided*, That, where the importer keeps a separate record, such as in-

voices, of the removals of distilled spirits, showing the removal data required to be entered on Record 52 and Form 52E, daily entries of the removal of goods from his premises may be made on the respective record not later than the close of business of the following business day, provided such separate record is approved by the district supervisor. (Secs. 2857, 2858, 3171, 3176, 3254, I.R.C.)

§191.60 *Separate record of serial numbers of cases.* Serial numbers of cases of distilled spirits disposed of need not be entered on Record 52 or Form 52E, "Monthly Record and Report of Importer or Proprietor of Tax-Paid Premises," provided the respective proprietor keeps in his place of business a separate record, approved by the district supervisor, showing such serial numbers, with necessary identifying data, including the date of removal and the name and address of the consignee. Such separate record may be kept in book form (including loose-leaf books) or may consist of commercial papers, such as invoices or bills. Such books, invoices, and bills shall be preserved for a period of four years and in such a manner that the required information may be ascertained readily therefrom, and, during such period, shall be available during business hours for inspection and the taking of abstracts therefrom by internal revenue officers. Entries shall be made on such separate approved record not later than the close of business of the day on which the transactions occur. The importer, whose separate record has been approved by the district supervisor, shall note in the column for reporting serial numbers that, "Serial numbers shown on commercial records per authority, dated -----" (Secs. 2857, 2858, 3171, 3176, 3254, I.R.C.)

§191.61 *Monthly reports.* A full and complete transcript of the required records shall be rendered on the monthly report, Form 52E, or Forms 52A and 52B with a summary on Form 338, as the case may be, and forwarded to the district supervisor, Alcohol Tax Unit, on or before the 10th day of the succeeding month. Records kept on Form 52E and Record 52 shall be preserved for a period of four years and during such period shall be available during business hours for inspection and the taking of abstracts therefrom by the Commissioner or any internal revenue officer. (Secs. 2857, 2858, 3171, 3176, 3254, I.R.C.)

§191.62 *Forms to be provided by users at own expense.* Form 52E, Record 52, and Forms 52A, 52B, and 338 shall be provided by importers at their own expense, but must be in the form prescribed by the Commissioner: *Provided*, That, with the approval of the Commissioner, they may be modified to adapt their use to tabulating or other mechanical equipment: *Provided further*, That where the form is printed in book form, including loose-leaf books, the instructions may be printed on the cover or the fly leaf of the book instead of on the indi-

vidual form. (Secs. 2857, 2858, 3171, 3176, 3254, I.R.C.)

Article XII—District Supervisor's Records and Reports

Record and Report of Red Strip Stamps

§191.63 *Monthly report, Form 1593.* Each district supervisor will, after audit of Forms 96, prepare Form 1593, "District Supervisor's Monthly Report of Red Strip Stamps," giving all the information required by the form. The report will be prepared in duplicate and one copy accompanied by Forms 96 will be forwarded by the district supervisor to the Commissioner not later than the last day of the month succeeding that for which the report is rendered. (Secs. 2803, 3176, I.R.C.)

Article XIII—Reports of Collectors of Customs

§191.64 *Semiannual reports of collectors of customs.* Collectors of customs will furnish the district supervisor as of June 30 and December 31 of each year a consolidated report showing the name of the importer, and the number and denomination of red strip stamps purchased on requisitions, Form 428, approved by them, and not credited against such requisitions. (Secs. 2803, 3176, I.R.C.)

Article XIV—Exchange and Redemption of Red Strip Stamps

§191.65 *Exchange and redemption of stamps.* Unused red strip stamps, in quantities of the value of \$5 or more, issued under section 203 of the Liquor Taxing Act of 1934 or subsection (b) of section 2803, Internal Revenue Code, may be exchanged for other stamps of the same kind and in any prescribed denomination, or the value thereof may be refunded, provided that a claim for such exchange or refund, establishing the lawful issuance and ownership of the stamps, is filed with the collector of internal revenue who issued the stamps (1) within two years after the date on which such stamps were lawfully issued or (2) if the stamps were lawfully issued prior to June 24, 1940, within two years from the latter date: *Provided, however*, That the value of unused stamps which have been destroyed may be refunded upon the filing of a claim as provided herein with proof to the satisfaction of the Commissioner of the destruction of the stamps. Claims for exchange of stamps will be filed on Form 1579 and claims for refund of the value of stamps on Form 843, in accordance with procedure prescribed by the Commissioner. (Secs. 2803, 3176, I.R.C.; Sec. 3, Act of June 24, 1940 (Public, No. 654, Seventy-sixth Congress).)

§191.66 *Disposition of strip stamps.* The importer who discontinues or sells his business shall recall from his agents abroad all unused stamps in their custody. He shall submit his entire stock of unused stamps, accompanied by a report of inventory, by denominations, serial numbers, and quantity, to the col-

lector of customs for crediting of the respective Forms 428. The collector of customs will then return such stamps to the importer and take his receipt therefor, in quadruplicate. When delivering the stamps the collector of customs will advise the importer that the value of the stamps, if in quantities of the value of \$5 or more, may be refunded provided that a claim for such refund on Form 843, establishing the lawful issuance and ownership of the stamps, is filed with the collector of internal revenue who issued the stamps (1) within two years after the date on which such stamps were lawfully issued or (2) if the stamps were lawfully issued prior to June 24, 1940, within two years from the latter date; or that such unused stamps may be destroyed in the presence of a Government officer and the importer thereby relieved from further accountability for the stamps. If the stamps are not surrendered to the collector of internal revenue for refund of their value or are not destroyed, the importer must account for the stamps each month by rendering Form 96, in duplicate, to the district supervisor. The collector of customs shall make a notation on the receipt as to the disposition made or to be made of the stamps. One copy of the receipt will be delivered to the importer and the original and one copy will be delivered to the district supervisor, who will forward the original to the Commissioner. (Secs. 2803, 3176, I.R.C.; Sec. 3, Act of June 24, 1940 (Public, No. 654, Seventy-sixth Congress))

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.
W. R. JOHNSON,
Commissioner of Customs.

Approved October 16, 1940.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 40-4379; Filed, October 17, 1940;
9:24 a. m.]

TITLE 30—MINERAL RESOURCES CHAPTER III—BITUMINOUS COAL DIVISION

[Docket No. A-84]

PETITION OF DISTRICT BOARD 8 FOR REDUC-
TION IN CLASSIFICATION OF CERTAIN
COALS PRODUCED BY CEDAR GROVE COL-
LIERIES, INC., AND KANAWHA BY-PROD-
UCTS COAL COMPANY

ORDER GRANTING TEMPORARY RELIEF AND
CONDITIONALLY PROVIDING FOR FINAL
RELIEF

A petition, accompanied by a request for temporary relief, pursuant to the provisions of section 4 II (d) of the Bituminous Coal Act of 1937 (hereinafter referred to as the Act), having been filed by District Board 8, with the Bituminous Coal Division of the Department of the Interior (hereinafter referred to as the Division), requesting a change in classification of coal from the Cedar Grove

Mine of Cedar Grove Collieries, Inc., and from the Monarch Mine of the Kanawha By-Products Coal Company, both Code Members in District 8, in Size Groups 1 to 4 from "M" to "O," in Size Groups 11 to 14 from "C" to "D," and in Size Groups 18 to 21 from "F" to "G," and a request having been made for a temporary order effecting these reductions in classifications pending final disposition of the petition; and

An informal conference having been held on notice to interested persons on October 12, 1940, at which conference petitioner withdrew its request for a temporary order granting reductions in Size Groups 11 to 14 and at which hearing there was no opposition to the request for temporary relief; and

The Director having considered the petition and the views expressed in support thereof by the petitioner, Cedar Grove Collieries, Inc., and Kanawha By-Products Coal Company,

Now, therefore, it is ordered, That the request for temporary relief is granted in part, and that pending final disposition of the petition herein, this section, (Schedule of Effective Minimum Prices for District No. 8 for all shipments except truck, § 328.11, *Alphabetical list of code members*), is amended by changing the classification of the above mines of Cedar Grove Collieries, Inc., and Kanawha By-Products Coal Company so that their classification in Size Groups 1 to 4 is changed from "M" to "O" for destinations other than Great Lakes, and in Size Groups 18 to 21 from "F" to "G" for destinations other than Great Lakes, and for Great Lakes cargo only in Size Groups 1 and 2 from "M" to "O," in Size Groups 3 and 4 from "M" to "N," and in Size Groups 18 to 21 from "F" to "G."

It is further ordered, That applications to stay, terminate or modify this temporary order, or pleadings in opposition to the temporary relief granted in said petition, or pleadings in opposition to the making final of the temporary relief granted in this petition, may be filed within forty-five (45) days hereof, pursuant to the rules and regulations governing practice and procedure before the Division in proceedings instituted pursuant to section 4 II (d) of the Act, and that this order and the relief herein granted shall become final sixty (60) days from the date hereof unless the Director shall otherwise order.

Dated, October 15, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-4377; Filed, October 16, 1940;
3:58 p. m.]

[Docket No. A-85]

PETITION OF DISTRICT BOARD 8 FOR RE-
CLASSIFICATIONS OF CAMBRIA COAL COM-
PANY

ORDER GRANTING TEMPORARY RELIEF AND
CONDITIONALLY PROVIDING FOR FINAL RELIEF

A petition, accompanied by a request for temporary relief, pursuant to the pro-

visions of section 4 II (d) of the Bituminous Coal Act of 1937 (hereinafter referred to as the Act), having been filed by District Board 8, with the Bituminous Coal Division of the Department of the Interior (hereinafter referred to as the Division), requesting that coal from the Royal Mine of Cambria Coal Company, a producer in District 8, in Size Group 22, be reduced in classification from "L" to "N" and requesting the granting of temporary relief pending the disposition of the petition; and

The Director having considered said petition and the views expressed in support thereof by petitioner and Cambria Coal Company at an informal conference held on notice to interested persons, and there having been no opposition thereto,

Now, therefore, it is ordered, That the petition for temporary relief is granted, and that pending the final disposition of the original petition herein, this section, (Schedule of Effective Minimum Prices for District No. 8 for all shipments except truck, Supplement No. 2, § 328.11, *Alphabetical list of code members*), is amended by changing the classification in Size Group 22 of the Royal Mine of Cambria Coal Company from "L" to "N" for shipment to all destinations.

It is further ordered, That applications to stay, terminate or modify this temporary order, or pleadings in opposition to the final relief requested in said petition, may be filed within forty-five (45) days hereof, pursuant to the rules and regulations governing practice and procedure before the Division in proceedings instituted pursuant to section 4 II (d) of the Act, and that this order and the relief herein granted shall become final sixty (60) days from the date hereof unless the Director shall otherwise order.

Dated, October 15, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-4378; Filed, October 16, 1940;
3:58 p. m.]

TITLE 46—SHIPPING

CHAPTER II—UNITED STATES MAR- ITIME COMMISSION

[General Order No. 21, Supp. No. 1]

SUBCHAPTER A—GENERAL PROVISIONS AND RULES OF PROCEDURE

PART 203—ADMISSION TO PRACTICE BEFORE THE COMMISSION

Registration of Persons Entitled to Prac- tice Before the United States Maritime Commission

Paragraph 3 of the Rules for the Registration of Persons Entitled to Practice before the United States Maritime Commission,¹ as set forth in General Order No. 21, dated February 2, 1938 (46 CFR, § 203.4), is hereby modified to read as follows:

¹ 3 F.R. 319.

§ 203.4 *Hearing.* The Commission in its discretion may call upon the applicant for a full statement of the nature and extent of his qualifications. If the Commission is not satisfied as to the sufficiency of the applicant's qualifications, it will so notify him by registered mail, whereupon he may request a hearing for the purpose of showing his qualifications. If he presents to the Commission no request for such hearing within 20 days after receiving the notification above referred to, his application shall be acted upon without further notice. (Sec. 204 (b), 49 Stat. 1987; 46 U.S.C. Sup. 1114 (b)) [General Order No. 21, Supplement No. 1, approved by the Commission October 15, 1940]

By order of the United States Maritime Commission.

[SEAL] W. C. PEET, Jr.,
Secretary.

OCTOBER 15, 1940.

[F. R. Doc. 40-4401; Filed, October 17, 1940;
11:50 a. m.]

TITLE 47—TELECOMMUNICATION

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 9—AVIATION SERVICES

FREQUENCIES: DISTRESS, CALLING, AND NAVIGATION

Amendment extending license terms of airport control stations

Section 9.71¹ of the Rules and Regulations of the Commission provides that, after January 1, 1941, applicants for renewal of airport control station licenses must specify an ultra high frequency in addition to 278 kc. Because of certain questions which have arisen with respect to the use of high frequencies for this service, as well as complaints received concerning the hardships that may result from the rule in some instances, the Commission has decided to postpone the effective date of the rule in order to allow time for a thorough review of the question.

Accordingly, the license terms of all existing airport control stations will be extended for three months, from March 1, 1941 to June 1, 1941. Under this arrangement, the applications for renewal of such licenses need not be filed until April 1, 1941.

Dated this 15th day of October 1940.
By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-4389; Filed, October 17, 1940;
11:09 a. m.]

¹ 4 F.R. 3380.

TITLE 49—TRANSPORTATION AND RAILROADS

CHAPTER I—INTERSTATE COMMERCE COMMISSION

PART 10—STEAM ROADS; UNIFORM SYSTEM OF ACCOUNTS¹

[F. R. Doc. 40-4387; Filed, October 17, 1940,
10:11 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. A-34]

PETITION OF BLACK BAND COAL COMPANY, A PRODUCER IN DISTRICT NO. 8, FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR ITS "REJECT" COAL

ORDER GRANTING, IN PART, TEMPORARY RELIEF

A petition dated September 18, 1940, pursuant to the provisions of section 4 II (d) of the Bituminous Coal Act of 1937, having been filed by Black Band Coal Company with the Bituminous Coal Division of the Department of the Interior; and

Petitioner having requested temporary relief pending final disposition of the petition; and

An informal conference, after notice to interested parties, having been held for the purpose of affording interested parties the opportunity of expressing their views with respect to the temporary relief requested; and

The Director having considered said petition and the views expressed at said conference, and there having been no opposition to the granting of temporary relief as hereinafter provided:

Now therefore it is ordered. That, a reasonable showing of necessity therefor having been made, pending final disposition of the petition in the above-entitled proceeding, the Schedule of Effective Minimum Prices for District No. 8, for all shipments except truck, be amended by providing, in addition to the price classifications therein established for said mine, a price classification of Q in size groups 1-4 inclusive, a price classification of P in size groups 5-6 inclusive, and a price classification of 0 in size group 7 for stained coal produced at the Reynolds Mine (Mine Index No. 405) of the Black Band Coal Company, when sold and delivered for domestic use under the trade-name "Red Band."

¹ Order of Interstate Commerce Commission prescribing amendments to Uniform System of Accounts for Steam Railroads, effective Jan. 1, 1941, was filed with the Division of the Federal Register, Oct. 17, 1940, at 10:11 a. m., F.R. Doc. 40-4387. Requests for copies may be addressed to the Interstate Commerce Commission.

Notice is hereby given that applications to stay, terminate, or modify the temporary relief herein granted may be filed pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated, October 16, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-4381; Filed, October 17, 1940;
9:32 a. m.]

[Docket No. A-37]

PETITION OF THE MALLORY COAL COMPANY FOR A CHANGE IN THE PRICE OF MINE RUN (SIZE GROUP 27) COAL FOR SHIPMENT VIA TIDEWATER TO MARKET AREA 1 FOR WATER GAS, RETORT AND BY-PRODUCT USE PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

ORDER CONSENTING TO WITHDRAWAL OF PETITION

Upon the request of the petitioner, Mallory Coal Company, the Director consents to the withdrawal of its petition and to the dismissal, without prejudice, of the proceedings in this Docket and to that effect.

It is so ordered.

Dated, October 16, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-4382; Filed, October 17, 1940;
9:32 a. m.]

[Docket Nos. A-32, A-33, A-112]

PETITION OF THE GUYAN EAGLE COAL COMPANY, A CODE MEMBER IN DISTRICT NO. 8, FOR A REDUCTION OF THE EFFECTIVE MINIMUM PRICES IN SIZE GROUPS 18 TO 21, INCLUSIVE; PETITION OF THE BUFFALO CHILTON COAL COMPANY, A CODE MEMBER IN DISTRICT NO. 8, FOR A REDUCTION OF THE EFFECTIVE MINIMUM PRICES IN SIZE GROUPS 1 TO 4, INCLUSIVE, AND 18 TO 21, INCLUSIVE; PETITION OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 8 FOR A CHANGE IN CLASSIFICATION OF COALS OF SIZE GROUPS 1 TO 4, INCLUSIVE, AND SIZE GROUPS 18 TO 21, INCLUSIVE, PRODUCED BY AMHERST COAL COMPANY, BUFFALO CHILTON COAL COMPANY, BUFFALO EAGLE MINES, INC., GUYAN EAGLE COAL COMPANY, AND LORADO COAL MINING COMPANY, CODE MEMBERS OF DISTRICT NO. 8, FOR SHIPMENTS TO ALL MARKET AREAS

NOTICE OF AND ORDER FOR HEARINGS

Petitions, pursuant to the provisions of section 4 II (d) of the Bituminous Coal Act of 1937, having been filed by the above-named petitioners, with the Bituminous Coal Division of the Department of the Interior:

It is ordered, That hearings in respect to the subject matter of such petitions be held on October 25, 1940, at 10 a. m. at a hearing room of the Bituminous Coal Division, 734 15th Street, NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearings will be held;

It is further ordered, That W. A. Cuff or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearings in such matters. The officer so designated to preside at such hearings is hereby authorized to conduct said hearings separately or to consolidate them, to administer oaths and affirmations, to examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearings from time to time and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendations of appropriate orders in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearings is hereby given to such petitioners and to any other party herein and to such persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to these proceedings may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petitions is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before October 23, 1940.

The matter concerned herewith in Docket No. A-32 is in regard to a petition filed by the Guyan Eagle Coal Company, a Code Member in District No. 8, requesting a change in classification in Size Groups 18 to 21, inclusive, for coal produced at its Guyan No. 1 Mine.

The matter concerned herewith in Docket No. A-33 is in regard to a petition filed by the Buffalo Chilton Coal Company, a Code Member in District No. 8, requesting a change in classification in Size Groups 1 to 4, inclusive, and 18 to 21, inclusive, for coal produced at its Buffalo No. 1 Mine.

The matter concerned herewith in Docket No. A-112 is in regard to a peti-

tion of District Board No. 8 for a change in the classification of coals in Size Groups 1 to 4, inclusive, produced by Buffalo Chilton Coal Company and Lorado Coal Mining Company from "Q" to "R" and for a change in the classification of coals in Size Groups 18 to 21, inclusive, produced by the aforesaid Code Members and the Amherst Coal Company, Buffalo Eagle Mines, Inc., and Guyan Eagle Coal Company from "F" to "G", for shipment into all market areas.

All persons are hereby notified that the hearing in the above entitled matter and orders entered therein, may concern, in addition to the matters specifically alleged in the petitions of the Guyan Eagle Coal Company, the Buffalo Chilton Coal Company, and the Bituminous Coal Producers Board for District No. 8, other matters incidental and related thereto, whether raised by amendment of the petitions, petitions of intervention or otherwise, and all persons are cautioned to be guided in their actions accordingly.

Dated, October 16, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-4380; Filed, October 17, 1940;
9:32 a. m.]

[Docket No. A-71]

PETITION OF THE BITUMINOUS COAL PRODUCERS' BOARD FOR DISTRICT NO. 1 FOR THE ESTABLISHMENT AND REVISION OF PRICE CLASSIFICATIONS AND EFFECTIVE MINIMUM PRICES FOR MINES OF COOK HOUSE COAL MINING COMPANY, GOTTLIEB KOLLAK, LOW ASH COAL COMPANY (FOSTER SHAFFER), AND RAY WETZEL

NOTICE OF AND ORDER FOR HEARING AND ORDER GRANTING TEMPORARY RELIEF

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937 having been duly filed with this Division by the above-named party;

It is ordered, That a hearing in the above-entitled matter, under the applicable provisions of said Act and the rules of the Division, be held on November 18, 1940, at 10 o'clock in the forenoon of that day in a hearing room of the Bituminous Coal Division to be designated by the Chief of the Records Section, Room 502, 734 Fifteenth Street NW., Washington, D. C.

It is further ordered, That Floyd McGown or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to ad-

minister oaths and affirmations, examine witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in this proceeding and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before November 13, 1940.

The matter concerned herewith is in regard to the revision of the classifications and effective minimum prices established for the Cook House Coal Mining Company's Cook House No. 1 Mine, Gottlieb Kollak's Kollak Mine, Low Ash Coal Company's (Foster Shaffer) Low Ash Mine, and Ray Wetzel's Mine; and for the establishment of effective minimum prices for shipment by rail of coals from the Cook House Coal Mining Company's Cook House No. 1 Mine.

All persons are hereby notified, that the hearing in the above-entitled matter and any orders therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment of the original petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of said original petition.

It is further ordered, That a reasonable showing of the necessity therefor having been made pending final disposition of the petition in the above-entitled matter, the temporary relief prayed for be, and the same is, hereby granted as follows:

Commencing on October 16, 1940, at 12:01 a. m., the effective minimum prices for the coals of the aforementioned mines shall be revised, and the Schedules of Effective Minimum Prices for District No. 1 shall be modified, as follows:

Schedule of Effective Minimum Prices for District No. 1 for Truck Shipments (Price Schedule No. 1)

Code member index	Mine index No.	Mine	Sub-district No.	County	Seam	Run of mine Mod. R/M 3
Page 12: Cook House Coal Mining Co. (Arthur Barracough).	1232	Cook House No. 1.....	9	Centre.....	A	215
Page 22: Kollak, Gottlieb.....	1631	Kollak.....	29	Cambria.....	B	220
Page 24: Low Ash Coal Co., The (Foster Shaffer).....	1699	Low Ash Coal Co.....	32	Cambria.....	B	225
Page 237: Wetzel, Ray.....	2224	Wetzel.....	12	Indiana.....	E	215

Schedule of Effective Minimum Prices for District No. 1 for All Shipments Except Truck (Price Schedule No. 1)

Mine index No.	Code member	Mine name	Sub-district No.	Seam	Freight origin group No.	Size group
1232	Cook House Coal Mining Co. (Arthur Barracough).	Cook House No. 1.....	9	A	44	3-G

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated, October 16, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-4383; Filed, October 17, 1940, 9:32 a. m.]

[Docket No. A-122]

PETITION OF THE BRULE SMOKELESS COAL COMPANY, A PRODUCER IN DISTRICT NO. 7, FOR A REDUCTION OF THE EFFECTIVE MINIMUM PRICES ESTABLISHED FOR SIZE GROUPS 9 AND 10

NOTICE OF AND ORDER FOR HEARING

A petition dated October 8, 1940, pursuant to the provisions of section 4 II (d) of the Bituminous Coal Act of 1937, having been filed by The Brule Smokeless Coal Company, with the Bituminous Coal Division of the Department of the Interior:

It is ordered, That a hearing in respect to the subject matter of such petition be held on November 6, 1940, at 10:00 a. m. at a hearing room of the Bituminous Coal Division, 734 Fifteenth St. NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held;

It is further ordered, That W. A. Cuff or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths

and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to such petitioner and to any other party herein and to such persons or entities having an interest in this proceeding and eligible to become a party herein. Any persons desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before November 1, 1940.

The matter concerned herewith is in regard to a petition filed by The Brule Smokeless Coal Company, a Code member in District No. 7, for a change in classification in Size Group 9 from "B" to "D" and for the establishment of a price classification of "D" in Size Group 10 for coal produced at its Brule Mine (Mine Index 32).

All persons are hereby notified that the hearing in the above-entitled matter and orders entered therein, may concern, in addition to the matters specifically alleged in the petition of The Brule Smokeless Coal Company, other matters incidental and related thereto, whether raised by amendment of the petition, pe-

titions of intervention or otherwise, and all persons are cautioned to be guided in their actions accordingly.

Dated, October 16, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-4384; Filed, October 17, 1940, 9:33 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

NOTICE OF HEARINGS AND DESIGNATION OF PRESIDING OFFICERS

Pursuant to the authority contained in subsections (b) and (d) of section 301 and section 511 of the Sugar Act of 1937 (Public Law No. 414, 75th Congress), as amended, notice is hereby given that public hearings will be held as follows:

For southern California, at Los Angeles, California, in Patriotic Hall, 1916 South Figueroa Street, on October 25, 1940, at 9:30 a. m.; and

For northern California, at Sacramento, California, in the Supervisor's Room of the County Courthouse, on October 28, 1940, at 9:30 a. m.

The purpose of such hearings is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining (1), pursuant to the provisions of section 301 (b) of the said act, fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of the 1941 crop of sugar beets on farms with respect to which applications for payments under the act are made, and (2), pursuant to the provisions of section 301 (d) of the said act, fair and reasonable prices for the 1941 crop of sugar beets to be paid, under either purchase or toll agreements, by processors who, as producers, apply for payments under the said act; and to receive evidence likely to be of assistance to the Secretary of Agriculture in making recommendations, pursuant to the provisions of section 511 of said act, with respect to the terms and conditions of contracts between producers and processors of sugar beets and with respect to the terms and conditions of contracts between laborers and producers of sugar beets.

Robert H. Shields, Robert B. Tyler, B. H. Benidt, Charles M. Nicholson and Joshua Bernhardt are hereby designated as presiding officers to conduct, either jointly or severally, the foregoing hearings.

Done at Washington, D. C., this 16th day of October 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] PAUL H. APPLEBY,
Acting Secretary of Agriculture.

[F. R. Doc. 40-4400; Filed, October 17, 1940, 11:33 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

STATIONERY AND ENGRAVING

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum rate applicable under section 6 of the Act are issued under section 14 thereof and part 522.58 of the Regulations issue thereunder (August 16, 1940, 5 F.R. 2862) to the employers listed below effective October 18, 1940.

The employment of learners under these Certificates is limited to the terms and conditions as designated opposite the employer's name. These Certificates are issued upon the employers representations that experienced workers for the learner occupations are not available for employment and that they are actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment. The Certificates may be canceled in the manner provided for in the Regulations and as indicated on the Certificate. Any person aggrieved by the issuance of these Certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, PRODUCT, NUMBER OF LEARNERS, LEARNING PERIOD, LEARNER WAGE, LEARNER OCCUPATIONS, EXPIRATION DATE

Dewberry Engraving Company, 807 South 20th Street, Birmingham, Alabama; Miscellaneous; Engraved Business Stationery—Social Engraving; 3 learners; 12 weeks for any one learner; 25 cents per hour; Engraver, Pressman; May 2, 1941.

Signed at Washington, D. C., this 17th day of October, 1940.

MERLE D. VINCENT,
Authorized Representative
of the Administrator.

[F. R. Doc. 40-4402; Filed, October 17, 1940; 11:58 a. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

WEARING APPAREL

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under section 6 of the Act are issued under section 14 thereof, Part 522 of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) and the Determination and Order or Regulation listed below and published in the FEDERAL REGISTER as here stated.

Hosiery Learner Regulations, September 4, 1940, (5 F.R. 3530)

Apparel Learner Regulations, September 7, 1940, (5 F.R. 3591)

Millinery Learner Regulations, Custom Made, August 29, 1940, (5 F.R. 3392)

Millinery Learner Regulations, Popular-Priced, August 29, 1940, (5 F.R. 3393)

Knitted Wear Order, October 24, 1939, (4 F.R. 4351)

Textile Order, November 8, 1939, (4 F.R. 4531) as amended, April 27, 1940, (5 F.R. 1586)

Glove Order, February 20, 1940, (5 F.R. 714)

The employment of learners under these Certificates is limited to the terms and conditions as to the occupations, learning periods, minimum wage rates, et cetera, specified in the Determination and Order or Regulation for the industry designated above and indicated opposite the employer's name. These Certificates become effective October 18, 1940. The Certificates may be cancelled in the manner provided in the Regulations and as indicated in the Certificate. Any person aggrieved by the issuance of any of these Certificates may seek a review or reconsideration thereof.

NAMES AND ADDRESSES OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS, AND EXPIRATION DATE

Ambler Silk Hosiery Mill, 125 W. Butler Avenue, Ambler, Pennsylvania; Hosiery; Full-Fashioned; 1 learner; October 18, 1941.

Argus Hosiery Mills, Inc., Sevierville, Tennessee; Hosiery; Full-Fashioned; 22 learners; June 18, 1941.

Arlington Hosiery Mills, Inc., Sunbury, Pennsylvania; Hosiery; Full-Fashioned; 12 learners; June 18, 1941.

Baker-Mebane Hosiery Mills, Inc., Mebane, North Carolina; Hosiery; Seamless; 10 learners; June 18, 1941.

Baker-Mebane Hosiery Mills, Inc., Mebane, North Carolina; Hosiery; Seamless; 5 percent; October 18, 1941.

Charles C. Barger Company, Espy, Pennsylvania; Hosiery; Seamless; 5 learners; October 18, 1941.

Garden State Hosiery Company, Midland Park, New Jersey; Hosiery; Full-Fashioned; 5 percent; October 18, 1941.

Garweb Full Fashioned Hosiery Company, Inc., Furlong, Bucks County, Pennsylvania; Hosiery; Full-Fashioned; 5 learners; October 18, 1941.

Industrial Hosiery Mills, Inc., Lebanon, Pennsylvania; Hosiery; Seamless; 5 percent; October 18, 1941.

Interwoven Stocking Company, Berkeley Springs, West Virginia; Hosiery; Seamless; 5 percent; October 18, 1941.

L'Opera Hosiery Mill, Inc., Glassboro, New Jersey; Hosiery; Full-Fashioned; 7 learners; June 18, 1941.

Marshall Field and Company, Fieldale, Virginia; Hosiery, Full-Fashioned; 5 percent; October 18, 1941.

The Millfay Manufacturing Company, Inc., Buffalo, New York; Hosiery; Full-Fashioned; 41 learners; June 18, 1941.

The Millfay Manufacturing Company, Inc., Buffalo, New York; Hosiery; Full-Fashioned; 5 percent; October 18, 1941.

Siler City Hosiery Company, Siler City, North Carolina; Hosiery; Full-Fashioned; 5 percent; October 18, 1941.

Sport-Wear Hosiery Mills, Etowah, Tennessee; Hosiery; Seamless; 5 percent; October 18, 1941.

Supreme Hosiery Company, Jersey Shore, Pennsylvania; Hosiery; Full-Fashioned; 15 learners; June 18, 1941.

C. A. Wanner, Fleetwood, Pennsylvania; Hosiery; Seamless; 14 learners; June 18, 1941.

Wilkes Hosiery Mills Company, North Wilkesboro, North Carolina; Hosiery; Seamless; 5 percent; October 18, 1941.

The Badger Raincoat Company, 209 Franklin Street, Port Washington, Wisconsin; Apparel; Men's and Boys' Clothing, Sportswear and other odd Outerwear, Leather and Sheep Lined Garments, Rainwear; 5 learners (75% of the applicable hourly minimum wage); October 18, 1941.

The Benhar Company, 935 Wall Street, Los Angeles, California; Apparel; Chenille House Coats; 20 learners (75% of the applicable hourly minimum wage); February 14, 1941.

The Benhar Company, 935 Wall Street, Los Angeles, California; Apparel; Chenille House Coats; 5 percent (75% of the applicable hourly minimum wage); October 18, 1941.

Berkshire Under-Garment Manufacturing Corporation, 266 Arch Street, New Britain, Connecticut; Apparel; Ladies' Slips; 5 learners (75% of the applicable hourly minimum wage); October 18, 1941.

Carbondale Children's Dress Company, Seventh Avenue and Mill Street, Carbondale, Pennsylvania; Apparel; Dresses; 34 learners (75% of the applicable hourly minimum wage); October 18, 1941.

Cherryland Manufacturing Company, Woodmere Avenue, Traverse City, Michigan; Apparel; Work Trousers; 5 learners (75% of the applicable hourly minimum wage); October 18, 1941.

Continental Overall Company, 607 S. First Street, Oskaloosa, Iowa; Apparel; Overalls, Denim and Denim Lined Jackets; 5 percent (75% of the applicable hourly minimum wage); October 18, 1941.

Cowden Manufacturing Company, 412 W. 8th Street, Kansas City, Missouri; Apparel; Overalls, Coveralls, Pants, Shirts; 5 percent (75% of the applicable hourly minimum wage); October 18, 1941.

Di-Anne Underwear Corporation, 308 S. First Street, Lebanon, Pennsylvania; Apparel; Underwear; 5 learners (75% of the applicable hourly minimum wage); October 18, 1941.

Excelsior Varsity Underwear Corporation, 2413 Eastern Avenue, Baltimore, Maryland; Apparel; Pajamas; 5 percent (75% of the applicable hourly minimum wage); October 18, 1941.

Jacob Finkelstein & Sons, 128 Singleton Street, Woonsocket, Rhode Island; Ap-

parel; Raincoats, Jackets, Mackinaws; 5 learners (75% of the applicable hourly minimum wage); October 18, 1941.

J. Freezer & Son, Inc., Floyd, Virginia; Apparel; Shirts; 5 percent (75% of the applicable hourly minimum wage); October 18, 1941.

J. Freezer & Son, Inc., Rural Retreat, Virginia; Apparel; Dress Shirts; 5 percent (75% of the applicable hourly minimum wage); October 18, 1941.

Glix Brand Company, Incorporated, Brown & Kellogg Streets, Pittsfield, Massachusetts; Apparel; Ladies' Pajamas; 5 percent (75% of the applicable hourly minimum wage); October 18, 1941.

Green Star Manufacturing Company, Sharptown, Maryland; Apparel; Men's Shorts; 5 learners (75% of the applicable hourly minimum wage); October 18, 1941.

Joseph Greenberg, 37 Bainbridge Street, Elizabethtown, Pennsylvania; Apparel; Children's Dresses; 5 learners (75% of the applicable hourly minimum wage); October 18, 1941.

Hansley Mills, Inc., 511 East Main Street, Barnesville, Ohio; Apparel; Men's Shorts; 35 learners (75% of the applicable hourly minimum wage); February 14, 1941.

Hansley Mills, Inc., 511 East Main Street, Barnesville, Ohio; Apparel; Men's Shorts; 5 percent (75% of the applicable hourly minimum wage); October 18, 1941.

Hyman Brothers, 33 and Arch Streets, Philadelphia, Pennsylvania; Apparel; Rayon and Cotton Dresses; 5 learners (75% of the applicable hourly minimum wage); October 18, 1941.

K. & C. Blouse Company, 302 S. Market Street, Chicago, Illinois; Apparel; Blouses; 3 learners (75% of the applicable hourly minimum wage); October 18, 1941.

Kelliner St. Croix Garment Company, 242 N. Main Street, Stillwater, Minnesota; Apparel; Sportswear and Outerwear; 5 learners (75% of the applicable hourly minimum wage); October 18, 1941.

Lexington Shirt Corporation, East Second Avenue, Lexington, North Carolina; Apparel; Shirts; 5 percent (75% of the applicable hourly minimum wage); October 18, 1941.

Miller Manufacturing Company, Main and Olive Streets, Cherryvale, Kansas; Apparel; Work Shirts and Trousers; 48 learners (75% of the applicable hourly minimum wage); February 14, 1941.

Penn Sportswear Corporation, 1010 Chestnut Street, Allentown, Pennsylvania; Apparel; Dresses; 5 learners (75% of the applicable hourly minimum wage); October 18, 1941.

Piedmont Shirt Company, 25 E. Court Street, Greenville, South Carolina; Apparel; Dress Shirts; 5 percent (75% of the applicable hourly minimum wage); October 18, 1941.

Rotary Shirt Company, Inc., 9-13 Broad Street, Glens Falls, New York; Apparel; Shirts; 5 percent (75% of the ap-

plicable hourly minimum wage); October 18, 1941.

Morris Schwartz Dress Company, Clinton Street, Montgomery, New York; Apparel; Dresses; 5 learners; (75% of the applicable hourly minimum wage); October 18, 1941.

J. H. Stern Garment Company, 116 E. Hummelstown Street, Elizabethtown, Pennsylvania; Apparel; Children's Dresses; 3 learners (75% of the applicable hourly minimum wage); October 18, 1941.

Stratford Lingerie, Incorporated, 1 High Street, Morristown, New Jersey; Apparel; Women's Lingerie; 5 learners (75% of the applicable hourly minimum wage); October 18, 1941.

Strutwear Knitting Company, 1015 South Sixth Street, Minneapolis, Minnesota; Apparel; Slips, Panties, Gowns, and Pajamas; 9 learners (75% of the applicable hourly minimum wage); February 14, 1941.

The Trenton Garment Company, W. Rush Street, Kendallville, Indiana; Apparel; Ladies' and Children's Knit Rayon Underwear; 5 learners (75% of the applicable hourly minimum wage); October 18, 1941.

Warner Brothers Company, 325 Lafayette Street, Bridgeport, Connecticut; Apparel; Corsets and Brassieres; 27 learners (75% of the applicable hourly minimum wage); October 18, 1941.

Lincoln Underwear Mills, Inc., Evans and Water Streets, Pottstown, Pennsylvania; Knitted Wear; Men's and Ladies' Knitted Underwear; 5 learners; October 18, 1941.

The Rayotex Knitting Mills, Tempest Street, Perry, New York; Knitted Wear; Football, Soft-ball and Bowling Shirts; 5 learners; October 18, 1941.

Stratford Knitting Mills, Linfield, Pennsylvania; Knitted Wear; Knitted Undergarments; 3 learners; October 18, 1941.

Strutwear Knitting Company, 1015 Sixth Street South, Minneapolis, Minnesota; Knitted Wear; Underwear; 6 learners; February 14, 1941.

Van Raalte Company, Inc., High Rock Avenue, Saratoga Springs, New York; Knitted Wear; Underwear; 5 percent; October 18, 1941.

Hickory Dyeing & Winding Company, 1211 North Hill Street, Hickory, North Carolina; Textile; Rayon Yarns; 8 learners; March 7, 1941.

Chipman LaCrosse Hosiery Mills Company, Inc., Hendersonville, North Carolina; Hosiery; Seamless; 10 learners; June 18, 1941.

Chipman LaCrosse Hosiery Mills Company, Inc., Hendersonville, North Carolina; Hosiery; Seamless; 5 percent; October 18, 1941.

Signed at Washington, D. C., this 17th day of October 1940.

MERLE D. VINCENT,
Authorized Representative
of the Administrator.

[F. R. Doc. 40-4403; Filed, October 17, 1940; 11:58 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 1-1589]

IN THE MATTER OF CRANDALL-MCKENZIE & HENDERSON, INC., COMMON STOCK, NO PAR VALUE

ORDER CHANGING TRIAL EXAMINER

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of October, A. D. 1940.

Crandall-McKenzie & Henderson, Inc., pursuant to section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to the Commission to withdraw its Common Stock, No Par Value, from listing and registration on the Pittsburgh Stock Exchange; and

The Commission having ordered that a hearing be held in this matter on October 24, 1940, in Washington, D. C., before Edward C. Johnson, an officer of the Commission; and

It being found necessary to change the trial examiner in this proceeding; It is ordered, That James G. Ewell, an officer of the Commission, be and he hereby is designated as the officer of the Commission to preside at such hearing in lieu of the officer heretofore designated.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4393; Filed, October 17, 1940; 11:30 a. m.]

[File No. 1-2834]

IN THE MATTER OF UNITED STOCKYARDS CORPORATION 70¢ CUMULATIVE CONVERTIBLE PREFERRED STOCK, NO PAR VALUE

FINDINGS OF THE COMMISSION AND ORDER GRANTING APPLICATION FOR WITHDRAWAL FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 16th day of October, A. D. 1940.

United Stockyards Corporation having applied to the Commission, pursuant to section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 thereunder, for permission to withdraw from listing and registration on the New York Stock Exchange its 70¢ Cumulative Convertible Preferred Stock, No Par Value; and

A hearing having been held on due notice before a trial examiner; the trial examiner having filed an advisory report; and the Commission having considered the record;

The Commission finds that the application complies with the requirements of said section 12 (d) of the said Act and the rules promulgated thereunder;

15 F.R. 4047.

25 F.R. 2537.

The Commission further finds that it is necessary for the protection of investors to impose a condition that the granting of said application for delisting shall not be effective until thirty days after the date of this order; and

It is ordered, That said application be and the same hereby is granted, effective at the close of business on November 15, 1940.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4396; Filed, October 17, 1940;
11:30 a. m.]

[File No. 1-3023]

IN THE MATTER OF TREADWELL YUKON CORPORATION, LIMITED, CAPITAL STOCK \$1 PAR VALUE

ORDER GRANTING APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of October, A. D. 1940.

The Treadwell Yukon Corporation, Limited, pursuant to section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to withdraw its Capital Stock, \$1 Par Value, from listing and registration on the San Francisco Stock Exchange; and

After appropriate notice, a hearing¹ having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on November 15, 1940.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4395; Filed, October 17, 1940;
11:30 a. m.]

[File No. 70-142]

IN THE MATTER OF CONSOLIDATED ELECTRIC AND GAS COMPANY, THE SALEM GAS LIGHT COMPANY

ORDER GRANTING APPLICATIONS AND PERMITTING DECLARATIONS TO BECOME EFFECTIVE PURSUANT TO RULE U-8

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 16th day of October, A. D., 1940.

The above-named persons having filed applications and declarations pursuant to the Public Utility Holding Company

Act of 1935, particularly sections 6 (b) and 10 thereof and Rules U-12B-1, U-12D-1 and U-12C-1 promulgated thereunder, with regard to the issue by The Salem Gas Light Company of a ten-year promissory note, dated January 1, 1940, in the principal amount of \$46,000, bearing interest at the rate of 1% per annum, in exchange for a similar principal amount of its demand notes now held by Consolidated Electric and Gas Company, and with regard to the cancellation by Consolidated Electric and Gas Company of \$24,684 principal amount of demand notes, together with all accrued and unpaid interest thereon in the amount of \$8,133.12, of The Salem Gas Light Company; and

Said applications and declarations having been filed on August 20, 1940, and amendments thereto having been filed on August 31, 1940 and on October 3, 1940, respectively, and notice of said filing having been duly given in the form and manner prescribed by Rules U-8 promulgated under said Act, and the Commission not having received a request for a hearing with respect to said applications and declarations within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and the above-named parties having requested that said applications, as amended, be granted and said declarations, as amended, be permitted to become effective on the earliest possible date after the filing of the last amendment; and

The Commission deeming it appropriate in the public interest and in the interest of investors and consumers to permit said declarations, as amended, pursuant to Rules U-12B-1, U-12D-1 and U-12C-1 to become effective and finding with respect to said application, as amended, under section 6 (b) of said Act that the requirements of the third sentence of section 6 (b) are satisfied, and with respect to said application, as amended, under section 10 of said Act that no adverse findings are necessary under section 10 (b) and section 10 (c) (1) of said Act and that the transaction involved has the tendency required by section 10 (c) (2) of said Act and being satisfied that the date of permitting said declarations, as amended, to become effective and of granting said applications, as amended, should be advanced;

It is hereby ordered, Pursuant to said Rule U-8 and the applicable provisions of the Act subject to the terms and conditions prescribed in Rule U-9, that the aforesaid applications, as amended, be and the same are hereby granted forthwith, and that the aforesaid declarations, as amended, be and the same hereby are permitted to become effective forthwith.

By the Commission, Commissioner Healy dissenting in the action with respect to the applications filed pursuant

to sections 6 (b) and 10 for the reasons set forth in his memorandum of April 1, 1940.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4397; Filed, October 17, 1940;
11:31 a. m.]

[File No. 70-164]

IN THE MATTER OF INTERNATIONAL UTILITIES CORPORATION

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE PURSUANT TO RULE U-8

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 16th day of October, A. D. 1940.

The above-named person having filed a declaration, pursuant to the Public Utility Holding Company Act of 1935 particularly section 12 (c) thereof and Rule U-12C-2 thereunder, regarding the declaration and payment by International Utilities Corporation, a registered holding company, out of capital or unearned surplus of a regular quarterly dividend on November 1, 1940, on its \$3.50 Prior Preferred Stock, at the rate of 87½¢ per share, on the 98,968 shares of such stock presently outstanding;

Said declaration having been filed on September 28, 1940, and a certain amendment having been filed on October 8, 1940, and notice of said filing having been duly given in the form and manner prescribed by Rule U-8 promulgated pursuant to said Act, and the Commission not having received a request for a hearing with respect to said declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon;

The above-named party having requested that said declaration, as amended, become effective on or before October 22, 1940; and

The Commission deeming it appropriate in the public interest and the interest of investors and consumers to permit the said declaration pursuant to Rule U-12C-2 to become effective and being satisfied that the effective date of such declaration, as amended, should be advanced;

It is hereby ordered, Pursuant to said Rule U-8 and the applicable provisions of said Act and subject to the terms and conditions prescribed in Rule U-9, and subject to the further conditions:

(1) That the proposed dividend on the \$3.50 Prior Preferred Stock shall be charged to capital surplus, and that the amount of such dividend so charged shall be restored to capital surplus from the first available earnings after December 31, 1938, after providing for 1939 and 1940 dividends heretofore declared and paid; and

(2) That International Utilities Corporation shall notify the \$3.50 Prior Pre-

¹ 5 F.R. 2517.

ferred stockholders concurrently with the receipt of the dividend that the dividend payment received is subject to the above condition,

that the aforesaid declaration, as amended, be and hereby is permitted to become effective forthwith.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4399; Filed, October 17, 1940;
11:31 a. m.]

IN THE MATTER OF A PROCEEDING BEFORE
THE SECURITIES AND EXCHANGE COMMISSION
TO DETERMINE WHETHER JOSEPH
L. MERRILL SHOULD BE SUSPENDED OR
EXPELLED FROM MEMBERSHIP ON CERTAIN
NATIONAL SECURITIES EXCHANGES

ORDER TO SHOW CAUSE AND FOR HEARING,
DESIGNATING OFFICER, TIME AND PLACE FOR
TAKING TESTIMONY

At a Regular Session of the Securities
and Exchange Commission, held at its
offices in the City of Washington, D. C.,
on the 16th day of October, A. D. 1940.

I

The Commission's public official files
disclose that:

(1) Joseph L. Merrill of Bronxville,
New York, is now and at all times hereinafter mentioned has been a partner of
a co-partnership doing business under
the firm name and style of Merrill Lynch,
E. A. Pierce & Cassatt; and

(2) Merrill Lynch, E. A. Pierce & Cassatt is now and has been at all times hereinafter mentioned a member within the meaning of section 3 (a) (3) of the Securities Exchange Act of 1934 of the New York Curb Exchange, New York Stock Exchange, San Francisco Stock Exchange, Chicago Stock Exchange, New Orleans Stock Exchange, Chicago Board of Trade, Detroit Stock Exchange, Cleveland Stock Exchange, Philadelphia Stock Exchange, Boston Stock Exchange, and Salt Lake Stock Exchange, all national securities exchanges registered as such pursuant to the Securities Exchange Act of 1934; and

(3) Joseph L. Merrill is now and has been at all times hereinafter mentioned a member of the exchanges whereon said Merrill Lynch, E. A. Pierce & Cassatt is a member within the meaning of section 3 (a) (3) of the Securities Exchange Act of 1934; and

(4) Joseph L. Merrill is now and has been at all times hereinafter mentioned, a director of Diamond Shoe Corporation; and

(5) During the period from January 1, 1940, to September 9, 1940, there were authorized 300,000 shares of the common stock, without par value, of Diamond Shoe Corporation of which 209,485 shares were outstanding; and

(6) During the period from January 1, 1940, to September 9, 1940, the officers and directors of Diamond Shoe Corpora-

tion together owned and controlled approximately 147,000 shares of said common stock; and

(7) On or about September 9, 1940, the stockholders of Diamond Shoe Corporation approved the increase of its authorized common stock from 300,000 shares of old common stock to 600,000 shares of new common stock, without par value, and the exchange of one share of the old stock for two shares of the new stock; and

(8) During the period from September 9, 1940, to the date hereof there have been authorized 600,000 shares of the common stock of Diamond Shoe Corporation of which 418,970 shares were outstanding; and

(9) During the period from September 9, 1940, to the date hereof the officers and directors of Diamond Shoe Corporation owned and controlled approximately 294,000 shares of its common stock; and

(10) During the period from January 1, 1940, to the date hereof the common stock of said Diamond Shoe Corporation was admitted to unlisted trading privileges upon the New York Curb Exchange and was deemed to be registered on said Exchange pursuant to section 12 (f) of the Securities Exchange Act of 1934.

II

(1) Members of its staff have reported to the Commission that, as a result of an investigation of the activities of Joseph L. Merrill and certain individuals hereinafter described as selling stockholders, in the trading on the New York Curb Exchange of the old and new common stock of Diamond Shoe Corporation during the period from July 29, 1940 to September 26, 1940, both inclusive, evidence has been obtained tending to show that during the period beginning on or about July 29, 1940, and continuously thereafter until the date hereof, said Joseph L. Merrill used and caused to be used the mails and means and instrumentalities of interstate commerce and the facilities of the New York Curb Exchange to effect, alone and with divers other persons, a series of transactions in the common stock of Diamond Shoe Corporation, creating actual and apparent active trading in such security and raising the price of such security for the purpose of inducing the purchase of such security by others, contrary to the provisions of section 9 (a) (2) and 20 (b) of the Securities Exchange Act of 1934.

(2) Members of the staff of the Commission have reported to it that no evidence has been obtained tending to show that the other partners of Merrill Lynch, E. A. Pierce & Cassatt knew of, consented to, or concurred in the effecting of the purchases of said stock by Joseph L. Merrill and others on the New York Curb Exchange as set forth herein.

III

Members of the Commission's staff have further reported to it the particulars of the violations hereinabove described

(but without limiting the generality of the foregoing) as follows:

(1) On or about July 29, 1940 Joseph L. Merrill initiated negotiations with Max L. Friedman, the president and a director of Diamond Shoe Corporation, and his wife, Sadie; J. P. Davidowitz, vice-president and a director; Benjamin Daniels, second vice-president and a director; Marx B. Hausman, treasurer and a director; Eugene Davidowitz, secretary and a director; Henry Rubin, a director and Ethel Soss, a holder of ten per centum or more of the old common stock of said corporation (hereinafter referred to as the selling stockholders), for an agreement to sell 30,000 shares of the old common stock of Diamond Shoe Corporation held by the said selling stockholders with a view to the distribution of said shares by Merrill Lynch, E. A. Pierce & Cassatt and others (hereinafter referred to as the underwriters) to the public.

(2) On or about August 5, 1940 Max L. Friedman, acting on behalf of the selling stockholders, notified Joseph L. Merrill in Portsmouth, New Hampshire via long distance telephone between Croton, New York and Portsmouth, New Hampshire, that the selling stockholders had agreed among themselves to sell 30,000 of their shares of the old common stock of Diamond Shoe Corporation to Merrill Lynch, E. A. Pierce & Cassatt and the other underwriters at \$25 for resale to the public at \$28.50 per share or 60,000 shares of the new common stock of Diamond Shoe Corporation at \$12½ for resale to the public at \$14¼.

(3) On August 5, 1940, only one transaction in the common stock of the Diamond Shoe Corporation occurred on the New York Curb Exchange. 25 shares were traded at 20¼. During the period from July 29 to September 9, inclusive, the round-lot unit of trading in this stock was 25 shares.

(4) On or about September 9, 1940, Diamond Shoe Corporation filed with this Commission a registration statement, under the Securities Act of 1933, covering, among other securities, 60,000 shares of the new common stock of Diamond Shoe Corporation to be offered to the public by the underwriters.

(5) From on or about September 9, 1940, to the date hereof, the said corporation has filed certain amendments to its registration statement as a result of which the said registration statement will not become effective pursuant to section 8 (a) of the Securities Act of 1933 until 4:30 P. M. October 28, 1940 unless the Committee otherwise declares.

(6) From January 1, 1940 to July 28, 1940, both inclusive, 525 shares of the old common stock of the Diamond Shoe Corporation were traded on the New York Curb Exchange.

(7) Between July 29, 1940 and September 9, 1940, both inclusive, 500 shares of the old common stock of Diamond Shoe Corporation were traded on the

New York Curb Exchange at prices ranging from \$20¼ to \$30 a share.

(8) During the period from July 29 to September 9, 1940, both inclusive, Joseph L. Merrill, the selling stockholders, their close relatives and an executive employee of a subsidiary of Diamond Shoe Corporation purchased 375 shares of the old common stock, or 75% of the total number of shares traded in on the New York Curb Exchange during that period as follows:

(a) On July 29, 1940, Benjamin Friedman, after consulting with his brother, the aforesaid Max L. Friedman, purchased 75 shares at \$20¼. The last previous transaction had taken place ten weeks previously, on May 20, 1940, at \$20½.

(b) On July 31, 1940, Benjamin Friedman purchased an additional 25 shares at \$20¼.

(c) On August 5, 1940, the said Max L. Friedman after being consulted by Andrew J. Weiss, real estate manager of A. S. Beck Shoe Corporation, a subsidiary of Diamond Shoe Corporation, purchased for the said Andrew J. Weiss 25 shares at \$20¾, ½ point above the previous transaction. Although the said Andrew J. Weiss had at all times more than sufficient funds in his bank accounts to pay for the shares thus purchased, Max L. Friedman caused the Down Town Properties, Inc., a personal and private holding company of certain of the officers of Diamond Shoe Corporation, to lend the said Weiss \$500 to finance the said purchase.

(d) On August 6, 1940, the aforesaid Benjamin Daniels, one of the selling stockholders, purchased 25 shares at \$21¾, one point above the previous transaction, which had been effected as aforesaid by Max L. Friedman for the account of Andrew J. Weiss.

(e) On August 12, 1940, Mrs. Tillie Rogers, after consulting with her brother-in-law, the aforesaid Max L. Friedman, purchased 25 shares at \$21¾.

(f) On August 13, 1940, the aforesaid Joseph L. Merrill purchased for his sister, Miss Irene Merrill, 50 shares at \$22½, ¼ of a point above the previous transactions, which had been effected as aforesaid by Tillie Rogers.

(g) On August 22, 1940, Joseph L. Merrill purchased for his sister, Mrs. Helen F. Hopkins, 25 shares at \$23, ½ point above the previous transaction, which he had effected as aforesaid for Miss Irene Merrill.

(h) On or about August 28, 1940, Joseph L. Merrill communicated with his uncle, James F. McKenna, at Brighton, Massachusetts via long distance telephone between New York and Brighton, Massachusetts, and suggested to said McKenna that he purchase \$3,000 worth of the old common stock of Diamond Shoe Corporation on the New York Curb Exchange.

(i) On August 28, 1940, said McKenna, acting pursuant to said suggestion, purchased 50 shares at \$26½, 3½ points

above the previous transaction, which Joseph L. Merrill had effected as aforesaid for Helen F. Hopkins. McKenna paid for the shares thus purchased out of the proceeds of a check for \$3,000 which Joseph L. Merrill loaned to said McKenna for that purpose.

(j) On August 31, 1940, Victor S. Markovitz, a nephew of said Max Friedman's wife, Sadie, purchased 25 shares at \$29½, 3 points above the previous transaction, which had been effected as aforesaid by James F. McKenna.

(k) On September 4, 1940, Victor S. Markovitz purchased an additional 50 shares at \$30, ½ point above the previous transaction, which he had effected as aforesaid.

(l) As a result of the aforesaid purchases by Joseph L. Merrill, his relatives, the selling stockholders and their relatives, the market price of the old common stock of the Diamond Shoe Corporation on the New York Curb Exchange was caused to advance from 20¼ on July 29, 1940, to 30 on September 4, 1940.

(9) From September 10, 1940, to September 26, 1940, 550 shares of the new common stock of Diamond Shoe Corporation were traded on the New York Curb Exchange at prices ranging between \$14¾ and \$15¼ per share.

(10) Between September 9, 1940, and September 26, 1940, both inclusive, the selling stockholders, their friends, relations and an employee of said corporation purchased 350 shares of the new common stock of Diamond Shoe Corporation, or 63.6% of the total number of shares traded in on the New York Curb Exchange for that period as follows:

(a) On September 13, 1940, after consulting with his close friend, Marx B. Hausman (one of the selling stockholders), David B. Silver purchased 100 shares of the new common stock at \$14¾.

(b) On September 20, 1940, the said Silver purchased another 100 shares of the new stock at \$15¼, ¼ point above the previous transaction, which occurred on September 16, 1940.

(c) On September 23, 1940, the aforesaid Max L. Friedman purchased 50 shares in the name of his wife, Sadie, and 50 shares for an employee named Jacob M. Wilck, at \$15 per share.

(d) On September 26, 1940, the said Silver purchased an additional 50 shares of the new stock at \$15 per share.

IV

The Commission's public official files disclose that: On September 25, 1940, the underwriters and the selling stockholders entered into an underwriting agreement pursuant to which the said stockholders agreed to sell 60,000 shares of the new common stock of the said Diamond Shoe Corporation. Pursuant to said agreement such shares were to be offered to the public by the underwriters at prices based upon the last sale price or the closing asked price, if lower, on the New York Curb Exchange on each day during the

offering. The underwriters were to pay to the selling stockholders an amount per share equal to the public offering price of said stock less \$1.75 per share, but in no event less than \$12.75 per share. Under the terms of said contract the selling stockholders and the corporation agreed, among other things, not to sell, subject to certain exceptions, any of the common stock of said corporation prior to January 1, 1941.

V

The Commission, having considered the aforesaid report of members of its staff, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(1) Whether Joseph L. Merrill has violated section 9 (a) (2) of the Securities Exchange Act of 1934; and

(2) Whether it is in the public interest to suspend for a period not exceeding 12 months or to expel the said Joseph L. Merrill from membership on the New York Curb Exchange, the New York Stock Exchange, San Francisco Stock Exchange, Chicago Stock Exchange, New Orleans Stock Exchange, Chicago Board of Trade, Detroit Stock Exchange, Cleveland Stock Exchange, Philadelphia Stock Exchange, Boston Stock Exchange and Salt Lake Stock Exchange;

It is hereby ordered, That a hearing for the purpose of taking evidence to determine whether the allegations set forth above are true, and, if so, whether the said Joseph L. Merrill should be suspended for a period not exceeding twelve months, or expelled from the national securities exchanges of which he is a member as aforesaid, pursuant to the provisions of section 19 (a) (3) of the Securities Exchange Act of 1934, be held at 10:00 A. M. on November twelfth, 1940, at the New York Regional Office, Securities and Exchange Commission, 120 Broadway, New York, New York, and that said hearing be continued at such other time and place that the Commission and officer conducting said hearing may determine; that for the purpose of said hearing Adrian C. Humphries be and he is hereby designated as the officer of the Commission and, pursuant to section 21 (b) of the Securities Exchange Act of 1934, said officer is hereby authorized to administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, require the production of books, papers, correspondence, memoranda and any and all other records deemed relevant or material to the matters at said hearing, and to perform all other duties in connection therewith as authorized by law.

It is further ordered, That this order and notice be served on said Joseph L. Merrill personally or by registered mail not less than seven (7) days prior to the time of hearing, and that this order and notice be published in the FEDERAL REGISTER in the manner prescribed by the Federal Register Act.

Upon the completion of the taking of evidence in this matter, the officer conducting said hearing is directed to conclude said hearing, make his report to the Commission and transmit same with a record of this hearing to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4394; Filed, October 17, 1940;
11:30 a. m.]

[File No. 70-179]

IN THE MATTER OF THE UNITED GAS IMPROVEMENT COMPANY, LUZERNE COUNTY GAS AND ELECTRIC CORPORATION

NOTICE REGARDING FILING SUBJECT TO
RULE U-8

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of October, A. D. 1940.

Notice is hereby given that a joint declaration has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above-named parties; and

Notice is further given that any interested person may, not later than November 2, 1940 at 4:30 P. M., E.S.T., or 1:00 P.M., E.S.T., if such date be a Saturday, request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration, as filed or as amended, may become effective or may be granted, as provided in Rule U-8 of the Rules and Regulations promulgated pursuant to said Act. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declaration, which is on file in the

office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

The United Gas Improvement Company, a registered holding company, proposes to sell, and Luzerne County Gas and Electric Corporation, its wholly-owned subsidiary, proposes to acquire for retirement 540 shares of \$7 Dividend First Preferred Stock of Luzerne County Gas and Electric Corporation for \$55,397.53 representing cost to The United Gas Improvement Company.

The declarants have designated sections 12 (c) and 12 (f) of said Act as applicable to the proposed transaction, and Rules U-12C-1 and U-12F-1 promulgated thereunder.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4398; Filed, October 17, 1940;
11:31 a. m.]